Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
ETC Reports and Annual Certifications	)	WC Docket No. 14-58
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

COMMENTS OF
WTA – ADVOCATES FOR RURAL BROADBAND

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SUMMARY

WTA – Advocates for Rural Broadband ("WTA") supports review of the outdated 2011 RoR high-cost support budget, and proposes that it be increased sufficiently to enable all rural local exchange carriers ("RLECs") – both those able to elect model-based support and those choosing or being forced to remain on cost-based support – to participate in the transition to the ubiquitous high-speed broadband networks and high quality and affordable broadband services needed by the households, businesses, governments and anchor institutions (such as schools, libraries, hospitals and health care clinics) of rural America,

Recognizing that fiber deployment, labor, network security and other costs have increased substantially since 2011 as the former voice and low-speed broadband network has grown rapidly into a predominately higher and higher speed broadband network, WTA has developed a proposed 2018-2026 RoR budget that includes "full funding" of Alternative Connect America Cost Model ("ACAM") support up to a per-location funding cap of $200, as well as "full funding" of the Consumer Broadband-Only Line ("CBOL") services increasingly demanded by the customers of cost-based RLECs. The WTA budget proposal [which is based largely upon Commission proposals and 2016 assumptions, and also includes relief from the "rural growth factor" that adversely impacts rural networks receiving High Cost Loop Support ("HCLS")] calls for a total RoR budget of $2.426 billion for 2018 (which includes the existing $200 million of additional CAF Reserve funding for ACAM), and for gradual annual increases that will ultimately reach a total RoR budget of $2.975 billion in 2026 (again including CAF Reserve dollars not previously deemed to be part of the stated RoR budget).

WTA supports a second ACAM glide path offer, and recognizes that substantial voluntary participation by additional RLECs can reduce budgetary problems. At minimum, WTA urges that support be offered at the same $200 per location funding cap provided to existing ACAM glide path recipients, and that otherwise qualified RLECs that were ineligible for the initial 2016 ACAM glide path offer due to their prior deployment of broadband facilities and services be allowed to participate. In the alternative, adjusting the funding cap to limit glide path support reductions to the same percentage (WTA proposes 5 percent) for each ACAM glide path RLEC could significantly increase voluntary ACAM glide path participation with a concomitant easing of RoR budget problems.

If the Commission, for any reason, determines that its Universal Service Fund ("USF") resources are not sufficient to enable "full funding" of ACAM participants and cost-based RLECs, WTA believes that any support reductions necessary to meet budget limitations must be shared equitably by both RLEC groups and their rural customers. For example, the offer of additional high-cost support to existing ACAM participants could be made at a per-location funding level somewhere between $146.10 and $200, together with appropriate adjustments in the associated build-out obligations. Likewise, a reasonable threshold level of HCLS and Connect America Fund – Broadband Loop Support ("CAF-BLS") could be established that would not be subject to unpredictable "haircuts" like those imposed by the existing Section 54.901(f) and 54.1310(d) budget control mechanisms. WTA believes that the most equitable, effective and predictable alternative is to set an uncapped threshold of 90 percent of the moving average of each carrier's unconstrained claims for HCLS and CAF-BLS for the three preceding budget years.

WTA suggests that the Commission hold off on considering a broader new ACAM model offer until after it addresses and can determine: (a) the impact of its review and revision of the overall size of the RoR high-cost support budget; (b) the level of participation and amount of budgetary relief resulting from a second ACAM glide path election; and (c) the availability of full funding for existing ACAM carriers and cost-based HCLS and CAF-BLS recipients. Only when these matters and questions are resolved can the parameters and incremental budgetary impact of a new broader ACAM model offer be reasonably analyzed and resolved.

If adopted and implemented, the foregoing overall RoR budget, ACAM support and cost-based RLEC support proposals would constitute a substantial improvement in the predictability and sufficiency of the RLEC high-cost support mechanisms and a major step toward the goal of reasonably comparable broadband services and rates in rural America. In contrast, alternatives such as the reduction of the Section 54.302 cap on total high-cost support, consolidation of HCLS and CAF-BLS into a single mechanism, expansion of high-cost support to include low income areas that are not high-cost areas, conduct of customer means testing, and adoption of winner-take-all reverse auctions would appear to detract from these goals by reducing the RLEC resources available for broadband deployment and otherwise discouraging future broadband investment.

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COMMENTS OF
WTA – ADVOCATES FOR RURAL BROADBAND

WTA – Advocates for Rural Broadband ("WTA") hereby submits its comments with respect to the *Notice of Proposed Rulemaking* ("*NPRM*") portion of the Commission's *Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking*, FCC 18-29, released March 23, 2018 ("*Order*") in the captioned proceedings. These comments are filed in accordance with the schedule established in 83 FR 17968 (April 25, 2018).

WTA applauds the Commission's decision to review the Rate-of-Return ("RoR") high-cost support budget that has remained unchanged since fiscal year 2011. In response, WTA proposes levels of both model-based and cost-based high-cost support intended to close the "digital divide" and to complete the basic, underlying broadband network needed to connect and serve the households, businesses, schools, libraries and health care facilities of rural America. In addition to general retail and wholesale price inflation, the intervening six and a half years have seen the acceleration of the transformation of the rural local exchange carrier ("RLEC") industry from one characterized by voice and low-speed broadband services using copper and other

mature technologies to one that has become a predominately high-speed broadband service using more complex and advanced fiber optic and packet-switched technologies. This evolution has been accompanied by significant changes in the nature and size of construction and operating costs, including higher wage scales and related labor costs for the more and differently skilled technical personnel and contractors required to construct, install, operate, maintain and protect the emerging new broadband facilities and service applications.

WTA urges the Commission to recognize that both model-based RoR support and cost-based RoR support are reasonable, legitimate, efficient and effective ways of encouraging broadband deployment and enabling broadband service adoption in the very different types of areas that constitute rural America. It asks the Commission to treat both categories of RLECs equitably and reasonably comparably in its distribution of high-cost support, build-out obligations and budgetary limitations. Most important, WTA emphasizes that residents of rural areas served by Alternative Connect America Cost Model ("ACAM") participants and by cost-based RLECs have the same critical needs during the coming decade for broadband deployment and upgrades and for affordable broadband services. Neither group of customers should be favored or disfavored.

WTA supports a second ACAM glide path offer – one that, at minimum, offers support at the very same $200 per location funding cap provided to the initial 2016 ACAM glide path recipients. WTA emphasizes particularly that equity requires such an offer to be made available to those otherwise qualified RLECs that were declared ineligible for the initial 2016 ACAM glide path offer due to their previous exemplary record of deploying state-of-the-art broadband facilities and services to their rural customers. WTA is very intrigued by the *NPRM*'s suggested alternative for encouraging substantially greater voluntary ACAM participation by limiting

support losses to the same percentage amount for each glide path RLEC by adjusting the funding cap for each such carrier. (WTA proposes a uniform 5 percent maximum support reduction.) Whichever alternative is selected, all interested parties will benefit from a second ACAM glide path offer because every increase in glide path participants produces a decrease in aggregate high-cost support and eases the pressures upon the overall RoR high-cost support budget.

WTA also advocates a Commission offer of full funding for existing ACAM participants at the $200 per location funding cap with associated increased build-out obligations, but with the proviso that such increased ACAM funding must not have the effect of reducing the high-cost support distributed to cost-based RLECs – for example, by increasing the adverse impacts of any existing or future budget control mechanisms like those of current Sections 54.901(f) and 54.1310(d) of the Rules that might be established by the Commission.

WTA proposes equivalent full funding of the High Cost Loop Support ("HCLS") and Connect America Fund – Broadband Loop Support ("CAF-BLS") mechanisms of cost-based RLECs. If, for any reason, that is not possible at this time, WTA proposes the establishment of a reasonable threshold level of HCLS and CAF-BLS that would not be subject to unpredictable "haircuts" like those imposed by the existing budget control mechanisms. WTA believes that the most equitable, effective and predictable alternative is to set an uncapped threshold of 90 percent of the moving average of each carrier's unconstrained claims for HCLS and CAF-BLS for the three preceding budget years.

WTA suggests that the Commission hold off on considering a broader new ACAM model offer until after it addresses and can determine: (a) the impact of its review and revision of the overall size of the RoR high-cost support budget; (b) the level of participation and budgetary relief resulting from a second ACAM glide path election; and (c) the availability of full funding

for existing ACAM carriers and cost-based HCLS and CAF-BLS recipients. Only when these matters and questions are resolved can the parameters and incremental budgetary impact of a new broader ACAM model offer be reasonably analyzed and resolved.

If adopted and implemented, the foregoing overall RoR budget, ACAM support and cost-based RLEC support proposals would constitute a substantial improvement in the predictability and sufficiency of the RLEC high-cost support mechanisms and a major step toward the goal of reasonably comparable broadband services and rates in rural America. In contrast, alternatives like reduction of the Section 54.302 cap on total high-cost support, consolidation of HCLS and CAF-BLS into a single mechanism, expansion of high-cost support to include low income areas that are not high-cost areas, conduct of customer means testing, and adoption of winner-take-all reverse auctions would appear to detract from these goals by reducing the RLEC resources available for broadband deployment and otherwise discouraging future broadband investment.

I
WTA – Advocates For Rural Broadband

WTA is a national trade association representing more than 340 rural telecommunications providers that offer voice, broadband and video-related services in rural America. WTA members are generally small RLECs that serve some of the most rugged, remote and/or sparsely populated areas of the United States. Their primary service areas are comprised of low-density farming and ranching regions, isolated mountain and desert communities, and Native American reservations. They must construct, operate and maintain their networks under conditions of climate and terrain ranging from the deserts of Arizona to the lakes of Minnesota to the wilderness and villages of Alaska, and from the valleys of Oregon to the plains of Indiana to the hills of Tennessee to the mountains of Wyoming, and along portions of the Mexican and

Canadian borders. The major common features of these diverse remote areas are the much longer than average distances that must be traversed, the much lower population densities, and the much higher per-customer costs of constructing, upgrading, operating and maintaining broadband networks than in urban and suburban America. WTA members are providers of last resort to many areas and communities that are both very difficult and very expensive to serve.

The typical WTA member serves fewer than 3,500 access lines in the aggregate and fewer than 500 access lines per exchange. WTA members are all RoR carriers. Approximately forty-five percent (45%) of WTA's members are included among the 207 RoR companies that have elected to receive ACAM support for the 2017-2026 period.[1] With the exception of several Alaska Plan companies, the rest of WTA's members have remained on the Cost-Based RoR Path for a variety of reasons, including that they were not eligible to elect ACAM support because (1) they had previously complied with customer demands and Commission policy by deploying substantial amounts of fiber-to-the-premises ("FTTP") facilities or 10/1 or better broadband services[2]; or (2) the model-based support offers (as well as the associated build-out obligations) for their service areas were wholly insufficient for and inapplicable to their actual operating and cost conditions.

[1] See Public Notice (*Wireline Competition Bureau Authorizes 35 Rate-of-Return Companies to Receive More Than $51 Million Annually in Alternative Connect America Cost Model Support And Announces Offers of Revised A-CAM Support Amounts to 191 Rate-of-Return Companies to Expand Rural Broadband*), WC Docket No. 10-90, DA 16-1422, released December 20, 2016; and Public Notice (*Wireline Competition Bureau Authorizes 182 Rate-of-Return Companies to Receive $454 Million Annually in Alternative Connect America Cost Model Support to Expand Rural Broadband*), WC Docket No. 10-90, DA 17-99, released January 24, 2017.

[2] 10/1 broadband service means 10 megabits per second ("Mbps") downstream and 1 Mbps upstream service.

II
WTA Supports Review and Increase of the Annual Rate-of-Return Budget

The Commission's High Cost mechanisms support the basic underlying voice and increasingly broadband networks that serve rural America. In addition to enabling access to state-of-the-art telecommunications and information services by rural households and small businesses, the High Cost program supports the underlying networks and services that provide or make possible E-Rate Program services to rural schools and their students and rural libraries and their patrons; Rural Health Care Program services to rural clinics and their patients; and Lifeline Program services to eligible rural households. Due to their comprehensive service obligations and interrelationships, it is critical that the High Cost mechanisms be specific, predictable and sufficient as required by 47 U.S.C. §§254(b)(5) and (e).

Based on Commission and National Broadband Plan views at that time that the overall High Cost Program budget should remain equal or close to then-current funding levels, the Commission in 2011 adopted the *USF/ICC Transformation Order*[3] which established a $4.5 billion overall budget for the High Cost Program. The Commission also decided at that time that $2.0 billion of that amount -- approximately equal to then-current levels of RLEC support -- would be budgeted for high-cost support for areas served by RoR carriers.[4]

Although accompanied by several changes intended to reduce the high-cost support of some RLECs (*e.g.*, an expanded corporate operations expense cap, a voice service rate floor, and a $250 per month per line cap on aggregate high cost support), the predominant stated purpose of the 2011 *USF/ICC Transformation Order* and its high-cost program budgets was to deal with

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[3] *In the Matter of Connect America Fund et al.*, 26 FCC Rcd 17,863 (2011) at ¶¶123-26, *aff'd sub nom. In re: 11-161*, 753 F.3d 1015, at ¶¶121-22 and 125 (10th Cir. 2014).

[4] *Id.* at ¶¶126, 195. Whereas the *NPRM* refers to the present annual rate-of-return budget at $2.0, it is actually $2.2 billion and includes a $200 million per year addition from the CAF Reserve to finance additional support furnished to ACAM carriers.

"transitioning from a system that supports only telephone service to a system that will enable the deployment of modern high-speed networks capable of delivering 21st Century broadband services and applications, including voice."[5] At the time, the Commission required RLECs to use their high-cost support to provide, upon reasonable request, broadband speeds of at least 4 Mbps downstream and 1 Mbps upstream.[6]

The United States Court of Appeals for the Tenth Circuit subsequently affirmed the Commission's decision to set the initial RoR high-cost budget at $2.0 billion per year, subject to several representations made by the Commission and conditions agreed to by the Commission. These were: (1) that fiscal year 2011 Universal Service Fund ("USF") funding levels could be maintained while reducing or eliminating alleged waste and inefficiencies that existed in the prior USF funding scheme; (2) that carriers would be afforded the authority to determine which requests for broadband service were reasonable; (3) that carriers would be allowed, when necessary, to use the waiver process adopted in the *USF/ICC Transformation Order*; and (4) that the Commission would conduct a budgetary review by the end of six years (*i.e.*, by the end of calendar year 2017).[7]

As the *NPRM* recognizes, a "budget designed to speed the deployment of 4 Mbps/1 Mbps broadband to rural America may be insufficient to encourage the deployment of the high-speed broadband networks that residents of rural America need." (*NPRM* at ¶108.) The Commission notes that the demand of residential consumers for 25 Mbps or better downstream broadband speeds has passed the 50 percent mark. In fact, the Commission's own broadband speed benchmarks have increased rapidly and repeatedly from 4 Mbps/1 Mbps in 2010 to 10 Mbps/1

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[5] *Id*. at ¶195.
[6] *Id*. at ¶206.
[7] *In re FCC 11-161*, 753 F.3d 1015, 1055-60 (10th Cir. 2014); *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016) ("*2016 RoR High-Cost Support Order*") at ¶148.

Mbps in 2012 to 25 Mbps/3 Mbps in 2015.[8] Even in the absence of the increased cost of deploying and operating higher-speed broadband networks, the Commission determined that accounting and adjusting for inflation would have increased the RoR High Cost program budget from $2.0 billion in the 2012 budget year to $2.193 billion in the 2018 budget year.[9] (*NPRM* at ¶107.)

WTA does not believe that the $2.0 billion 2011 budget for a mechanism that supported a primarily voice and low-speed (4 Mbps/1 Mbps) broadband network can be deemed reasonable, much less sufficient, to support the current 2018 predominately high-speed (10 Mbps/1 Mbps and 25 Mbps/3 Mbps) broadband network, much less the likely further broadband speed increases and service upgrades between now and 2026.

Attached as Exhibit A is WTA's proposed RoR high-cost support budget for the period from 2018 to 2026. With respect to ACAM, the proposed budget includes: (a) existing annual ACAM support (including the $200 million additional ACAM funding from the CAF Reserve); (b) the additional $36.5 million per year of ACAM support granted in paragraphs 62 to 68 of the *Order* (with the assumption that all eligible entities accept the offered additional support and build-out obligations); and (c) the additional $66.6 million of annual ACAM support necessary to increase the ACAM funding benchmark to $200 per location. With respect to cost-based RLECs, WTA's budget projections are based largely upon the assumptions listed by the Commission in Appendix E to its *2016 RoR High-Cost Support Order*. The primary driver is the inclusion in the budget of the fully calculated costs of CAF-BLS support as more and more rural

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[8] NPRM at ¶108; *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2018 Broadband Deployment Report, GN Docket No. 17-199, FCC 18-10, released February 2, 2018 ("*2018 Broadband Deployment Report*"), at ¶15. Note also that 768 kilobits per second ("kbps") was the Commission's broadband downstream speed benchmark as recently as the 2008-2009 period.

[9] If adjusted for inflation at a 1.732% rate that WTA believes to be the average annual inflation rate during the 2011-2017 period, the RoR budget would have been $2,034,649,000 in 2012; $2,069,879,965 in 2013; $2,105,730,286 in 2014; $2,142,201,534 in 2015; $2,179,304,465 in 2016; and $2,217,050,018 in 2017.

customers transition to broadband-only service. WTA is also proposing that the Commission ease the adverse impact of the "rural growth factor" upon HCLS support by freezing the HCLS cap at existing 2018 levels.

WTA proposes an increase in the overall RoR budget by about $226.2 million in 2018 -- to $2.426 billion (which includes the $200 million of additional CAF Reserve funding for ACAM that has not previously been deemed to be part of the $2.0 billion RoR budget). With gradual annual increases, the proposed WTA budget will ultimately reach $2.975 billion in 2026 (again including CAF Reserve dollars not previously deemed to be part of the stated RoR budget).

WTA is well aware of the substantial budgetary impacts of the transition to high-speed broadband-only services. However, Consumer Broadband-Only Line ("CBOL") is the state-of-the-art advanced telecommunications and information service that rapidly increasing numbers of American household and business customers are demanding. And high-speed broadband lines are what the Commission, the Congress and many other government officials and agencies are urging to be deployed in rural America to reduce and eliminate the digital divide. Broadband lines and services are not only more expensive to construct and provide, but also are required to be allocated 100 percent to the interstate jurisdiction given that Internet access and other broadband services have long been deemed to be interstate in nature. WTA understands scarce resources and budgetary limitations, but the inescapable fact is that the transition from the 2011 network (which was still significantly a voice business) to the 2018 high-speed broadband network (and increasingly broadband-only network) entails substantial cost increases and growing high-cost support needs.

WTA also believes that this is the time for the Commission to provide HCLS recipients with relief from the adverse consequences of the rural growth factor. WTA is well aware that RLEC networks have lost lines (albeit at decreasing rates during recent years as the terminations of service on second "dial-up lines" and multiple "teen lines" have largely stopped with the end customer use of those services). The critical facts are that RLECs and other carriers build networks that serve geographic areas, and that they must build and maintain trunks, routes and drops to serve actual and potential customer locations whether or not such customers take service or terminate service from time to time (for a variety of reasons such as moving away, financial problems, illness and death). The Commission's own ACAM and cost-based RLEC build-out obligations recognize this fact, and consider a "location" to be "served" as long as the carrier has built its network close enough that it can complete the remaining construction and installation to provide service to a customer at the location within ten business days. Given that HCLS recipients have built the requisite networks and incur the same costs to operate and maintain such networks even as the numbers of their current customers fluctuate, the Commission should stop penalizing HCLS recipients for immaterial line count decreases.[10] Therefore, WTA has proposed that the "rural growth factor" be eliminated, and that the cap on HCLS be frozen at its existing 2018 level for the remainder of the period from 2018 to 2026. WTA recognizes that HCLS disbursements to individual cost-based RLECs will change as they move through their investment cycles and that actual total HCLS support may decrease as RLECs migrate to broadband-only services and CAF-BLS support. However, the proposed elimination of the rural growth factor will stop the HCLS cap from continuing to decrease for reasons unrelated to

[10] Obviously, if a HCLS recipient loses all or virtually all of its customer lines, it should not receive support. To date, this has not been the case with respect to HCLS or its rural growth factor.

appropriate network investment and operations and from causing unnecessary reductions of HCLS for *bona fide* network investments and operations.

WTA notes that its proposed RoR budget includes Connect America Fund-Intercarrier Compensation ("CAF-ICC") support in decreasing amounts as the terminating access and reciprocal compensation transition continues. Should the Commission take further action during the 2018-2026 period with respect to originating access, transport or other intercarrier compensation matters, it is likely to be necessary to increase the total RoR budget further in order to accommodate revisions that increase CAF-ICC support or to include new transitional cost recovery mechanisms to replace existing revenue streams.

The transition from predominately copper voice networks and hybrid copper/fiber voice/data networks to predominately higher-speed broadband networks during the 2011-2017 period has been a major cause of higher RLEC costs. As one WTA member has reported, its investment per subscriber is now about $13,700 for FTTP facilities (compared to $3,100 for copper facilities), while its investment per homes passed is about $10,650 for FTTP facilities (compared to $2,070 for copper facilities). Fiber prices fluctuate, but those paid by the typical WTA member have steadily increased during the past 8-to-10 years, and tend to jump significantly during times when available supplies are low due to large fiber buys by national and regional carriers and fiber production disruptions from weather, natural disaster and other causes. Moreover, the costs of the many miles of fiber trunks and extensions that have had to be constructed have been significantly impacted by the availability, workloads and prices of contractors. WTA members and engineering consultants report that RLECs can save about 20 to 30 percent on contractor and related construction costs if they can do large-scale broadband deployments at one time rather than a series of multiple, smaller-scale annual projects.

However, the financial resources of many small RLECs, plus high-cost support limitations and uncertainties, have rendered it difficult or impossible for many RLECs to achieve these economies. One WTA member reports that incremental broadband speed upgrades short of a full FTTP build entail substantial additional costs for digital loop carrier ("DLC") acquisition, installation and maintenance.[11] Whereas outside plant maintenance costs theoretically should decrease when fiber trunks and drops have been deployed underground, RLECs in many rural areas must deal with rodents such as gophers, squirrels, mice and rabbits getting into pedestals and conduits and eating some of the glass fibers. This not only is a potentially expensive maintenance cost *per se*, but may involve significant additional time and expense to find the problem along a 20-or-30 mile rural trunk or line. Finally, as increasing numbers of FTTP drops much be placed to existing homes with landscaped yards, the costs of constructing and maintaining such drops has increased substantially due to the additional time needed to minimize damage to landscaping and to repair the damage that could not be avoided.

Labor costs have increased, and are continuing to increase, significantly for most RLECs as they transition from being primarily voice service providers to being predominately broadband service providers. To deploy, upgrade, operate, maintain and trouble-shoot their emerging broadband services and applications, RLECs need much more intensively trained and sophisticated engineering, inside plant and Information Technology ("IT") personnel than they have traditionally employed. Some of these people are voice service employees who have gone back to school or trained to develop new broadband skills, and who then require substantial

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[11] For example, DLCs must be located closer and closer to customer premises in order to deliver higher and higher broadband speeds. A 4 mbps/1 Mbps speed requires a DLC within 18,000 feet of a customer's premises; a 10 Mbps/1 Mbps speed requires a DLC within 10,000 feet; and a 25 Mbps/3 Mbps speed requires a DLC within 4,000 feet. Since 2011, the WTA member has had to add approximately 500 miles of additional fiber lines and an additional 74 DLCs in order to increase the broadband speeds of its existing customers from 4/1 to 10/1 or 25/3. It notes that the additional DLCs drive up costs because they require hardware and software updates and battery maintenance and replacement.

salary increases to compensate them for their enhanced qualifications and to keep them from leaving for other high-tech industry jobs. Others are young technical-savvy people who must be recruited – often from more urban schools and areas – and paid premium salaries to come to rural service areas and remain there on a long-term basis. In addition to the higher salaries necessary to obtain and retain the necessary qualified broadband technical employees, RLECs have also been required to offer more elaborate and expensive benefits packages to get and keep these employees. One WTA member reports approximately 60 percent increases in its total network engineering salaries and in its total plant engineering salaries from 2011 to 2017, primarily as a result of its transition to high-speed broadband services. Another WTA member reports that average total salaries of its engineering, IT and network technician staff have increased by over 39 percent from 2012 to 2017, again due to the higher salaries it has had to pay to obtain qualified broadband service employees. Yet a third WTA member reports that the labor rates for its broadband construction and technical staff have increased by more than 22 percent since 2011.

The transition to broadband also requires substantial increased investment and expenses for network security. One WTA member reports that it is already incurring additional annual costs of almost $350,000 for broadband network security, and these costs appear to be growing. A second WTA member reports a 900 percent increase in its network security costs between 2011 and 2018.

Finally, middle mile costs are growing significantly as RLEC customers increase their broadband usage. While WTA recognizes that cost-based RLECs do not receive high-cost support for their middle mile expenses at this time, it nonetheless notes that these costs continue to increase significantly. One WTA member reports that its middle mile costs rose from $6,500

per month in 2011 to $14,000 per month in 2017, while another states that its middle mile costs grew from $4,000 per month to $9,975 during the same 2011-2017 period.

In sum, not only the substantial and continuing post-2011 transformation of the RoR sector from a mature voice and low-speed broadband business to a rapidly evolving and advanced technological high-speed broadband business, but also the continuing increases in the nature and amount of broadband-related labor, construction and network security costs, require a substantial revision and increase in the outmoded 2011 RoR high-cost budget.

III
WTA Supports a Second Model Offer for Glide Path Companies

WTA urges adoption of the Commission's proposal to extend a new offer of ACAM support to carriers willing to accept a level of model support that is lower than their calculated baseline support for 2017. This constitutes a reasonable opportunity for eligible RLECs to reconsider the benefits and drawbacks of model-based support with respect to their service areas after viewing the experience of the industry with alternative mechanisms of ACAM support and cost-based support during 2017 and the first part of 2018. It is a particularly welcome and equitable opportunity for RLECs that were previously denied the option to receive and accept offers of ACAM support due to their prior broadband deployment efforts and accomplishments.

WTA believes that some of its members would be interested in reviewing a second offer of ACAM glide path support, although it cannot reliably estimate at this time how many of its members will be willing and able to accept such offers. Ultimate decisions will be based, in substantial part, upon the total amount of ACAM support offered to each eligible company during the ultimate remaining 8-to-9-year term, the degree to which offers constitute reductions from their 2017 high-cost support, and the nature and expected costs of the associated build-out

obligations.[12] Unfortunately, cursory review of the Reports 12.3 and 13.3 released by the Commission/Bureau on May 11, 2018[13] indicate that a large number of potentially eligible RLECs would suffer critical losses of more than 30 percent of their 2017 support if they elected the glide path option with a $200 per-location funding cap (Report 13.3) and would be hit with even larger reductions if a $146.10 funding cap were employed (Report 12.3). Given that cost-based RoR RLECs have already experienced the adverse impacts upon broadband deployment plans and daily service operations of 9-to-14 percent reductions in their high-cost support from the budget control mechanisms,[14] it is not likely that many will elect ACAM glide path alternatives that entail ultimate support reductions of several times those amounts.

WTA reiterates that it supports a second ACAM glide path offer. Regardless of how many RLECs actually can accept the contemplated offer, its adoption and implementation will constitute a win-win outcome for the entire RLEC industry. Eligible companies will have the opportunity to reconsider model-based support in light of additional knowledge and experience gained since the initial 2016-17 elections and will receive a second chance to opt voluntarily into model-based support if warranted by their analyses. The existing support and build-out arrangements of the companies that opted into ACAM during the 2016-17 election periods will not be affected, while the fact that only glide path companies willing to accept lower support amounts will be eligible for the proposed new model election will mean that there will be a reduced demand for total high-cost support along with an associated easing of pressures on the

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[12] It is reasonably believed by many RLECs (and confirmed in multiple instances) that the ACAM model overestimates the number of locations in many study areas.

[13] Public Notice (*Wireline Competition Bureau Releases Illustrative Model Results to Aid Preparation of Comments in Response to 2018 Rate-of-Return Reform NPRM*), WC Docket No. 10-90, DA 18-481, released May 11, 2018.

[14] WTA and its members are very happy with and grateful for the Commission's decision in the Third Order on Reconsideration to eliminate the effect of the budget control mechanisms for the 2017-2018 budget year. WTA's points here are that its cost-based RoR members have experienced the actual and projected impacts of the support reductions from the budget control mechanisms during the current budget year, and that many are not likely to opt into glide path options entailing support reductions several magnitudes greater.

overall RoR budget. WTA is particularly encouraged by the Commission's statement that the reduced support amounts resulting from the proposed second ACAM glide path model offer "in turn could create additional [budget] headroom for [cost-based] rate-of-return carriers over time." (*NPRM* at ¶117.)

WTA vigorously supports this Commission's proposal to include "census blocks where an incumbent or its affiliate is providing 10 Mbps/1 Mbps or better broadband using either fiber to the premises (FTTP) or cable technologies" as eligible for the proposed second offer. (*NPRM* at ¶121.) It is not only reasonable and equitable, but also good public policy, to offer ACAM support options to RLECs that have a demonstrated record of using their past high-cost support to comply with the Commission's broadband deployment policies. Moreover, by the time that the current and proposed term for ACAM support ends in 2026, the 10 Mbps/1 Mbps service level previously employed in 2016 as an exclusion factor is virtually certain to be long outmoded – in fact, is likely to be considered a primitive and long-surpassed phase like dial-up. As the Commission is well aware, 10 Mbps/1 Mbps service does not require FTTP facilities and has already been superseded in the consumer marketplace by 25 Mbps/3 Mbps and faster services.[15] And even where FTTP has been deployed partially or completely in a study area, the Commission has recognized that high-cost support is still required.[16] In addition to the fact that many existing FTTP deployment loans remain subject to substantial repayment obligations and schedules, electronics upgrades and fiber maintenance are continuing requirements while significant amounts of new FTTP construction remain necessary when customers move into and

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[15] Remarks of FCC Chairman Ajit Pai at the Farm Foundation/U.S. Department of Agriculture Summit, Washington, DC, April 18, 2018, at p. 2; *2018 Broadband Deployment Report* at ¶15

[16] *Connect America Fund, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed* Rulemaking, WC Docket Nos. 10-90 and 14-58 and CC Docket No. 01-92, 31 FCC Rcd 3087 (2016) at par. 56.

within rural service areas.[17] In sum, the proposed new ACAM glide path offer should be made to all remaining cost-based RLECs willing to accept a level of model support that is lower than their calculated 2017 baseline support -- without regard to the broadband services they currently offer or the amount of fiber they have currently deployed.

WTA supports Commission use of the same $200 per location funding cap (rather than a $146.10 per location funding cap) for the second group of glide path ACAM recipients as it employed for the first group in 2016.[18] It has long been Commission policy to treat similarly situated entities in the same manner,[19] and there is no sound reason to depart from that approach here. Moreover, review of Reports 12.3 and 13.3 released by the Bureau on May 11, 2018, indicates that a $200 per-location funding cap will entail smaller support reductions vis-à-vis a $146.10 funding cap and thus make a second ACAM glide path offer more attractive and more likely to be accepted by at least some more of the eligible RLECs. Given that additional ACAM glide path participants will reduce demand for high-cost support and help to ease current budgetary pressures, the Commission should at least duplicate the $200 per location funding offer that it gave the initial glide path companies in 2016 in order to encourage as many additional RLECs as practicable to voluntarily accept the contemplated second offer.

In alternative, WTA is very interested in the *NPRM*'s proposal that increased ACAM glide path participation be encouraged by focusing upon the "amount of support loss" rather than the "per location funding cap" as the mechanism for treating glide path participants in an

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[17] In rural areas, farms and ranches often contain multiple residences for families and employees, and such residences are often located substantial distances from each other and from the road. When a customer, for example, adds a new residence on the property for family members or employees, significant construction can be required to serve the new location and can require substantial expense to minimize and repair landscape damage.

[18] Public Notice (*Wireline Competition Bureau Authorizes 35 Rate-of-Return Companies to Receive More Than $51 Million Annually in Alternative Connect America Cost Model Support and Announces Offers of Revised A-CAM Support Amounts to 191 Rate-of-Return Companies to Expand Rural Broadband*), WC Docket No. 10-90, DA 16-1422, released December 20, 2016.

[19] See, e.g., *Melody Music, Inc. v. FCC*, 345 F2d 730, 732-33 (D.C. Cir. 1965) (FCC may not treat similarly situated entities differently without an adequate explanation for doing so).

equivalent manner. That is, by "adjust[ing] the per-location funding cap for each carrier so that every [cost-based] carrier has an opportunity to accept the new model with only a small loss (5 to 15 percent) of support" (*NPRM* at ¶122), the Commission could take a major step toward giving the many RLECs that received what they consider to be unreasonably low ACAM support offers[20] (e.g., many of the 30, 40, 50, 60, 70, 80 and 90 percent support reductions listed in Reports 12.3 and 13.3) *bona fide* new reasons and incentives to reconsider a voluntary election of model-based support. WTA would propose a 5 percent maximum limit on loss of support for glide path carriers as a way to increase ACAM participation significantly while making substantial progress toward reducing overall RoR high-cost support disbursements and budgetary pressures.[21]

WTA notes that the proposed second ACAM glide path offer will provide support that will terminate the same time as the initial 2016-2017 ACAM offers at the end of calendar year 2026, but will have the same associated build-out obligations (other than no 40% benchmark filing in 2020). In other words, the proposed second offer appears to contemplate: (a) 8-to-9 years of monthly ACAM support; (b) a three-tiered transition path where at least the tier for the largest support reductions will have a more steep and rapid slope than that for the initial 2016 glide path participants; and (c) the same build-out obligations that the new participant would have had if it had elected the glide path in 2016. It is reasonable for the Commission to terminate all ACAM support arrangements and build-out obligations at the same time at the end of calendar year 2026. However, for the contemplated second group of ACAM glide path

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[20] WTA is not re-litigating here the assertions which it has made in the past that the modification of the Connect America Cost Model developed for the large price cap carriers to become the Alternative Connect America Cost Model for RoR carriers has resulted in model errors that have produced ACAM offers of very large increases in support for some RLECs and offers of very large decreases in support for other RLECs. It merely notes here that the offers of very large decreases in ACAM support to some RLECs in 2016 had the effect of making it impossible for them to elect model-based support at that time.

[21] If a 5 percent or other limitation upon support losses were applied to the second group of glide path participants, it should also be offered – at least prospectively – to those that elected the glide path in 2016.

participants, this means that they will receive only about 80-to-90 percent of the total support of the initial 2016 group, but will have the same level of build-out obligations and possibly a more onerous transition path. WTA believes that the proposed second offer would be more attractive and equitable if the build-out obligations were adjusted and reduced proportionally to account for the reduced amount of support resulting from the shorter actual term and steeper transition path.

WTA opposes the removal of census blocks from the service areas eligible for the second ACAM glide path offer on the basis of "certified" FCC Form 477 data rather than a challenge process based upon the actual availability throughout the census block of reasonably comparable broadband service. Whether accurately certified or not, FCC Form 477 indicates only that the filer offers the claimed level of service to one or more locations in a census block, and does not show whether or not more than one of the residents of that census block are or can be adequately and thoroughly served by the filer if the incumbent RLEC receives no ACAM support or build-out obligations to serve them. Hence, the entities most adversely affected by a FCC Form 477 challenge process are the households within an allegedly "competitive" census block that are removed from a study area receiving ACAM support without their knowledge or consent and without any indication whether they will have access to a reasonably comparable broadband service alternative. Whereas an RLEC can complain that some or all of the census blocks removed from its study area for ACAM support purposes are not adequately served, it has the option to decide whether the ACAM support offer for its remaining census blocks is reasonable and it will not have to deploy broadband to locations in the deleted census blocks if it accepts ACAM support for its truncated service area. In contrast, the households within the excluded census blocks will have no such option; rather, they will be stuck with the service of a filer that may or not be able to serve them and that may or may not be able to increase its

broadband speeds above the 10 Mbps/1 Mbps level as broadband applications and service demands evolve.

WTA supports incorporation of a 25% Tribal Broadband Factor into ACAM. This would reduce the high-cost funding benchmark on "Tribal Lands"[22] from $51.50 to $39.38 and increase the per-location funding cap in such areas by about $13.12. As WTA understands the *NPRM*, these proposed changes would only apply where an RLEC serving Tribal Lands opts into the second ACAM glide path offer. Given that such RLEC would be accepting reduced high-cost support, there would be no adverse impacts on any existing or future RoR budget.

Finally, WTA emphasizes one more time that adoption of a second ACAM glide path offer will reduce the total amount of annual high-cost support as those voluntarily accepting the offer transition from their 2017 HCLS and CAF BLS support to their ACAM support. Depending upon the number of additional ACAM glide path participants and the amounts of cost-based support they forego, the budget numbers proposed in Section II above can be revised downward.

IV
Other Potential ACAM Changes

WTA supports full funding of existing ACAM carriers at the $200 per location funding cap as long as such increase does not adversely impact the support of cost-based RLECs. WTA also tentatively favors consideration of a broader new model offer, but asks that such consideration be postponed until the impacts of the overall RoR budget review, the potential

[22] WTA supports the *NPRM*'s proposed definition of "Tribal Lands" to include any federally recognized Indian tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act, and Indian Allotments, as well as Hawaiian Home Lands. *NPRM* at n. 327.

second ACAM glide path offer, and the level of funding for existing ACAM participants and cost-based RLECs can be determined.

A
WTA Conditionally Supports Full Funding of Existing ACAM Carriers

WTA supports "full funding" of the approximately 182 existing ACAM recipients not on the glide path by increasing their per-location funding cap from $146.10 to $200.00, and increasing their associated broadband build-out requirements. The *NPRM* estimates that adoption of this proposal would result in approximately $66.6 million per year of additional support during the current 10-year ACAM term if all eligible carriers accepted the offer. (*NPRM* at ¶143.)

WTA agrees that an increase in the per-location funding cap to $200 would accelerate broadband deployment in the rural areas served by existing ACAM recipients. It is aware of projections that the $200 funding cap will result in an increase in 10 Mbps/1 Mbps service to approximately 21,566 additional locations, and an increase in 25 Mbps/3 Mbps service to approximately 17,728 additional locations. These are merely the immediate short-term advantages, for the longer fiber trunks deployed in networks (and especially the FTTP facilities deployed for most 25/3 locations) this will enable broadband speeds within the affected areas to increase more rapidly and efficiently in the long term as customer demand evolves.

WTA's primary reservation is that the $66.6 million or so per year needed to pay for the increased $200 funding cap must not come at the expense of the remaining cost-based RLECs. WTA's proposed RoR budget (Section II) is designed to fully fund both ACAM participants and cost-based RLECs, and to avoid mechanisms that place the burdens of budget control mechanisms more on one group than the other.

The 182 or so ACAM carriers eligible for the contemplated funding cap increase were largely ACAM "winners" that elected a combination of certain ACAM support and build-out obligations that they deemed to constitute an improvement over their former cost-based support. In stark contrast, many of the remaining cost-based RLECs were not eligible to receive or accept ACAM offers because of their substantial prior deployments of 10 Mbps/1 Mbps broadband services and/or FTTP facilities, while many of the rest received ACAM offers that would have reduced their high-cost support so drastically that the offers could not reasonably be accepted. Hence, while WTA supports "full funding" for the existing ACAM recipients, it does not want any support limitations or reductions deemed necessary to meet RoR budget goals to be imposed solely upon cost-based RLECs as were the existing budget control mechanisms. Rather, if existing ACAM participants and the remaining cost-based RLECs cannot be fully funded, a potential equitable solution might be to increase the ACAM funding cap to a point between \$146.10 and \$200 per location (with appropriate revised build-out obligations) as well as to adopt a reasonable threshold mechanism for cost-based RLECs (Section V below).

B
WTA Urges Postponement of a Broader New Model Offer Until Other RoR Budget Issues Are Resolved

WTA is conditionally supportive of the potential opening of a new ACAM election window for all remaining cost-based RoR carriers. As indicated above, WTA believes that it is reasonable for the Commission to provide a further opportunity for RLECs to consider the advantages and disadvantages of ACAM support and associated build-out obligations in deploying and providing state-of-the-art broadband services to their rural service areas. The contemplated second ACAM opt-in period is particularly equitable for those RLECs that were previously rendered ineligible to participate in the ACAM option due to their prior deployment

of FTTP facilities and/or their provision of increasingly outmoded 10 Mbps/1 Mbps broadband services.

Reports 12.3 and 13.3 indicate that there remains a significant minority of cost-based RLECs that would receive a larger amount of ACAM support than their 2017 cost-based support, and that some of these RLECs could receive ACAM increases greater than 100 percent. It is not clear how many of these RLECs would elect ACAM if given a second option (a first option in the case of previously ineligible RLECs), or what the impact of such new ACAM elections would be on the overall RoR budget.

With one exception, WTA believes that the multi-step "broader new model offer" process proposed in paragraphs 145 through 147 of the *NPRM* would be the most equitable and effective way to proceed if and when it is determined that the contemplated offer could be accommodated within the overall RoR budget without adverse budgetary impacts. The Commission should first set a budget that specifies the maximum amount of additional ACAM support that will be provided in conjunction with the second ACAM election. The Commission should then select a funding threshold (*e.g.*, $52.50) and a preliminary per-location funding cap (*e.g.*, $200.00 or $146.10), and use these to develop and release an initial set of ACAM offers and associated build-out obligations for each remaining eligible cost-based RLEC. After the initial election process is completed, the Commission can then calculate whether the incremental ACAM support amounts of the electing RLECs are within the specified budget. If they are, all elections can be accepted. If they are not, the Commission should reduce the per-location funding threshold as necessary to keep the incremental ACAM support within the specified budget and calculate and propose a set of revised ACAM offers and build-out requirements. In brief, the

Commission should adopt essentially the same two-step process that it employed equitably and successfully during the initial 2016-2017 ACAM election.

The difference that WTA would propose is that the Commission postpone its consideration of a broader new model offer until it has resolved the overall RoR budget, second ACAM glide path offer, and full ACAM and cost-based RLEC funding issues of the *NPRM*. Once these issues are resolved, it will then be feasible to determine whether sufficient RoR high-cost budgetary resources are available to support the additional budgeted cost of a broader new model offer.

V
If Necessary, WTA Supports a Reasonable Threshold for Cost-Based Support

As Chairman Pai has recognized, the "budget control mechanism [of Sections 54.901(f) and 54.1310(d) of the Rules] has created constant uncertainty for small, rural carriers, endangering their ability to make long-term investment decisions to bring high-speed broadband to the millions of Americans that still lack it."[23] In addition to the *Third Order on Reconsideration*'s very welcome elimination of the approximately $180 million adverse impact of the budget control mechanisms for the July 2017 to June 2018 budget year, the *NPRM* recognizes that the rapid growth and unpredictability of the budget control mechanisms has had an adverse impact upon rate comparability as well as capital planning and proposes a threshold level of support for cost-based RoR carriers that is not subject to unpredictable decreases. (*NPRM* at ¶¶148, 151.)

As discussed in more detail in Section VI below, cost-based RoR regulation is not a flawed or outmoded approach that encourages or enables RLECs to operate inefficiently by

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[23] Statement of Chairman Ajit Pai on Projected USF Budget Cuts for Small, Rural Carriers, released April 27, 2018.

padding operating expenses or over-investing in capital projects to increase profits. The vast majority of RLECs have had a long and exemplary record of using their limited financial resources, including high-cost support, to bring quality, affordable and reasonably comparable voice and now broadband services to many of the most remote, expensive and difficult-to-serve portions of rural America. If the matter was ever in doubt, the Commission's recent reforms regarding ineligible expenses, operating expense limitations, capital investment allowances and corporate operations expense caps will ensure beyond a reasonable doubt that all high-cost support received by RLECs is used for the intended purposes of Section 254(e) of the Act without risk of significant waste, fraud or abuse.

WTA urges the Commission to recognize that both model-based RoR support and cost-based RoR support are reasonable, legitimate, efficient and effective ways of encouraging broadband deployment and enabling broadband service adoption in the very different types of areas that constitute rural America, and to treat both approaches equitably and reasonably comparably in its distribution of high-cost support, build-out obligations and budgetary limitations. Most important, both advocates and regulators need to keep in mind that residents of rural areas served by ACAM participants and by cost-based RLECs have the same critical needs for broadband deployment and upgrades and for affordable broadband services during the remaining years of the 2017-2026 term of the present high-cost support plan and mechanisms and that neither group of customers should be favored or disfavored..

To date, the budget control mechanisms of Sections 54.901(f) and 54.1310(d) of the Rules have wreaked increasing havoc upon cost-based RLECs and their customers. The Section 54.901(f) CAF-BLS budget control mechanism has increased from 4.9% as of July 1, 2016, to 9.1% as of January 1, 2017, to 12.4% as of July 1, 2017, and is scheduled to increase to 15.5% as

of July 1, 2018. Similarly, the Section 54.1310(d) HCLS budget control mechanism has changed from 4.9% as of July 1, 2016, to 9.1% as of January 1, 2017, to 12.4% as of July 1, 2017, to 14.9% as of October 1, 2017, to 13.5% as of January 1, 2018, to 13.7% as of April 1, 2018, and is scheduled to increase to 15.5% as of July 1, 2018.[24] Moreover, the unpredictability and adverse impacts of these increases were, and continue to be, exacerbated by the facts that they are not evenly distributed among states or among cost-based RoR carriers. (*NPRM* at ¶78.) As with the former Quantile Regression Analysis, cost-based RLECs are unable to undertake reasonable and prudent investment and operational measures to control the size of the budget control mechanism "haircuts" imposed upon them, for the percentage reductions are based upon the aggregated investments, costs and high-cost calculations for more than 600 other study areas in addition to their own study areas. Among other things, WTA members have experienced adverse budget control mechanism-related impacts upon their investment plans and service and maintenance operations such as: (a) difficulties in providing the reliable and predictable financial projections necessary to obtain Rural Utilities Service ("RUS") and private bank loans for broadband deployments and upgrades; (b) growing reluctance by boards of directors to proceed with the construction of previously approved broadband upgrades and the drawing down of previously approved broadband loans due to concerns about their continuing ability to repay the loans; (c) increased dangers of loan covenant violations due to large and unexpected revenue shortfalls that can place loans in default and allow lenders to accelerate repayment; and (d) increasing decisions by some RLECs not to replace employees that leave or retire in order to reduce costs.

[24] Note that the changes in the Section 54.901(f) CAF-BLS budget control mechanism were for ICLS only from 2016 through March 2018.

WTA has proposed a revised RoR budget that will fully fund the calculated HCLS and CAF BLS support of cost-based RLECs and that will not require the continued operation and growth of the existing budget control mechanisms. However, if – for any reason – the proposed revised overall RoR budget cannot be fully funded, WTA urges that any budget shortfalls and high-cost support reductions be borne by both ACAM participants and cost-based RLECs in an equitable manner rather than by cost-based RLECs alone. For ACAM participants, that would mean that the per-location funding cap might not be able to be increased all the way from $146.10 to $200.00 (with accompanying adjustments to ACAM build-out obligations) and/or that a broader second model offer might not be able to be made.[25] For cost-based RLECs, it would mean a threshold mechanism like that proposed in the *NPRM* – one that will substantially reduce the unpredictability, size and growth of the current budget control mechanisms.

WTA opposes the *NPRM* proposal to modify the budget control mechanisms by using only a *pro rata* reduction and by eliminating the existing per-line reduction. When the budget control mechanisms were first developed and implemented, the dual *pro rata* and per-line approaches were intended as an equitable way of spreading the burden of high-cost support reductions among large and small RLECs. The *pro rata* approach was designed to reduce the dollar amounts of the high-cost support of all cost-based RLECs by the same percentage, while the per-line approach was designed to reduce the burden upon smaller RLECs that frequently serve relatively small numbers of lines in some of the most remote and high-cost areas. Eliminating the per-line portion will substantially increase the budget control mechanism support reductions per customer for the smaller RLECs that serve these "highest-cost" study areas (i.e., those with loop costs exceeding $2,000 per month). Even though they may entail a few

[25] To be very clear, WTA is suggesting only prospective changes to ACAM support offers and associated build-out obligations before they are accepted by RLECs.

additional inputs and calculations for the Universal Service Administrative Company ("USAC"), the current dual *pro rata* and per-line approach should be retained because it reduces the adverse impact of the budget control mechanisms somewhat in the remote and rugged areas served by very small RLECs that are least capable of bearing increased "haircuts."

WTA has reviewed and analyzed the four alternatives advanced in the *NPRM* for establishing a threshold level of high cost support that would not be subject to the budget control mechanisms.

The most equitable, effective and predictable approach would be to set the uncapped threshold at a specified fraction of each carrier's calculated unconstrained claims amount for HCLS and/or CAF-BLS (*i.e.*, prior to reduction by a budget control mechanism) for a specified period. WTA proposes an uncapped threshold of 90 percent of each carrier's unconstrained averaged claims for HCLS and CAF-BLS for the three preceding budget years. The three-year moving average is proposed to mitigate and spread out increases in unconstrained claims for CAF-BLS support as the result of the transitions of customers to broadband-only services. This transition is highly desirable to satisfy the growing demands by customers for broadband-only services as well as the goals of the Commission for deployment of higher speed broadband services and associated applications. However, as the Commission is well aware, fiber loops and other high-speed broadband-only facilities are allocated 100 percent to the interstate jurisdiction, and tend to increase the calculated claims for CAF-BLS support. By employing a three-year average,[26] changes in CAF-BLS support due to customer migration to broadband-only services can be smoothed and better anticipated. A specified fraction of 90 percent is also reasonable, as

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[26] WTA notes that the Commission recently employed a three-year average of operating expenses as a cap to be used in monitoring and regulating potential allocations of operating expenses for HCLS and CAF-BLS purposes. *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket No. 18-52, FCC 18-62, released May 11, 2018, at ¶ 27.

a potential loss of 10 percent of the critical high-cost support revenue stream constitutes a very serious economic hardship for most RLECs and is likely to have adverse impacts upon broadband investment plans and operations. WTA notes that its proposed 10% reduction is situated between the initial 4.9% and 9.1% budget control mechanism "haircuts" that immediately got the attention of cost-based RLECs and the subsequent 12.4% and greater "haircuts" that have been seriously disrupting their operations and broadband deployment plans. The primary advantage of WTA's proposal is that it will stop the skyrocketing increases in the budget control mechanism factors to 15% and beyond and recover a degree of predictability that will help struggling cost-based RLECs resume broadband investment planning and upgrades.

WTA is aware that the Commission is also considering the alternative of setting the uncapped threshold at 80 percent of the amount a cost-based RLEC would have received if it had elected the new model offer (based on a funding cap of $146.10 per location). However, as indicated by Report 12.3, large numbers of RLECs would receive ACAM support amounts under a second offer constituting decreases of 30, 40, 50, 60, 70, 80 and 90 percent of their 2017 funding claims for HCLS and CAF-BLS.[27] Those ACAM offers, by themselves, entail very large decreases in high-cost support that would severely disrupt the current operations of the RLECs and preclude them from deploying additional broadband services and speeds. A threshold set at 80 percent of an already impossibly low ACAM support offer would not allow many of these RLECs to remain "going concerns" if their existing HCLS and CAF-BLS support were reduced to that amount.

[27] It is not clear to WTA whether those RLECs that were deemed ineligible to receive ACAM offers with respect to the 2016-17 elections are included in Report 12.3, and can determine their base ACAM offer amount. Also, Report 13.3 indicates that a second model offer based upon a $200 per-location funding cap would likewise leave many current cost-based RLECs with ACAM support amounts well less than 30 percent of their 2017 funding claims.

WTA also opposes the use as an uncapped threshold of the five-year CAF BLS forecast developed by the National Exchange Carrier Association ("NECA") for the carrier-specific deployment obligation. It is WTA's understanding that the NECA forecasts were developed based on applying average industry growth assumptions to individual companies' cost and demand data. Data resulting from these calculations are not likely to be representative of the data for individual companies, including their investment cycles and market conditions.

In sum, WTA has proposed a revised RoR budget intended to encourage sufficient deployment and upgrading of the basic underlying broadband networks in RLEC service areas and hopefully to eliminate the growth, unpredictability and other adverse impacts of the existing budget control mechanisms. If, for any reason, the Commission is unable or unwilling to fully fund that budget, WTA urges that all RLEC customers be treated the same, and that the support limitations and reductions necessary to stay within a smaller budget be shared equitably among ACAM participants and cost-based RLECs and their respective rural customers. WTA believes that the most reasonable and equitable mechanism for cost-based RLECs is an uncapped threshold set at 90 percent of each such RLEC's unconstrained averaged claims for HCLS and CAF-BLS for the three preceding budget years.

VI
Other Potential Reforms

Before addressing other potential RoR reforms, WTA notes that there are frequent allegations, but virtually no evidence, that RoR regulation of RLECs has provided incentives for companies to operate inefficiently by "padding" operating expenses and over-investing in capital projects to increase profits. The asserted 1962 "Averch-Johnson effect" was based upon a simplistic two-input model (labor and capital) and a substantial number of assumptions (such as

absence of competition, continuous rate of return adjustments with no regulatory lag, minimal or no regulatory reviews of investment) that have not been accurate for decades. WTA is aware of substantial criticism of the shortcomings of the Averch-Johnson model, but no evidence that it has produced accurate or reliable predictions of RLEC behavior during the latter portion of its 56-year life, if ever.

Like any large group, the approximately 900 to 1,000 RLECs can theoretically contain a few bad apples. However, the vast majority of RLECs have a long and unblemished record of providing quality and affordable service – first voice and now broadband – to their rural communities, and using their limited financial resources to make reasonable and prudent investments and expenditures without material waste, fraud or abuse. As far back as its November 2007 *Recommended Decision*, the Joint Board repeatedly declared that RLECs had done a "commendable job" under the existing high-cost support mechanisms of deploying voice and early broadband services to nearly all of their customers while maintaining an essential Provider of Last Resort network.[28] More recently, USAC Payment Quality Assurance ("PQA") audits have estimated only a 0.04 percent improper payment rate for the High-Cost Program during 2015 ($1.1 million), and a 0.05 percent improper payment rate ($2.5 million) for 2016 – rates that are both very low *per se* and a very small fraction of the estimated improper payment rates for other programs.[29]

The major advantage of cost-based RoR regulation, cost studies and high-cost support calculations is that they deal specifically with the actual costs incurred by each separate RLEC to serve the climate, terrain, population density and dispersion, and other unique geographic,

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[28] *High-Cost Universal Service Support*, WC Docket No. 06-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477 (Joint Board 2007), at ¶¶ 30 and 39.
[29] Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for First Quarter 2018* (November 2, 2017), at p. 9.

demographic and economic characteristics of its particular study area. Whereas a model like ACAM may or may not be accurate on an aggregated national basis, it has proven to be very inaccurate for the specific study areas served by RLECs because its general assumptions do not (and likely cannot) capture their unique characteristics and variations, and because the errors affecting small companies cannot be netted and averaged out over large numbers of study areas and exchanges like they can with the price cap carriers. For example, the most reasonable and credible explanation of the numerous and widely oscillating positive and negative variations between the "2017 CLAIMS Funding less CAF ICC" and "Total Non-Tribal and Tribal Annual Model-Based Support" of RLECs reported in the recently released Report Nos. 12.3 and 13.3[30] is that the ACAM model estimates do not accurately reflect the costs and support needs of large numbers of individual small RLECs.

WTA is aware of the theoretical suspicions that RoR carriers have incentives to "over-invest" and "over-spend" in order to "over-earn." However, these suspicions are not borne out in the real world in which RLECs must operate. For example, RLECs are generally small companies with limited financial resources that have been faced with the major task of upgrading their networks from voice to high-speed broadband service as the business and technology of the telecommunications industry changes. Most RLECs simply do not have the money to make unnecessary or imprudent network investments or the balance sheets to convince their lenders to provide the loans that might allow them to do so. Cost-based RLECs today not only are subject to the capital investment allowance of Section 54.303(b) through (m) of the Rules, but also are virtually required to deploy FTTP facilities in most of their broadband upgrades in order to provide the 25 Mbps downstream/3 Mbps upstream services that are rapidly becoming standard. Likewise, RLECs have no perceptible incentive to over-spend on their operating expenses

[30] Federal Communications Commission, *CAF – A-CAM 2.4.0 – Report Version 12.0 and 13.0* (May 10, 2018).

because such expenses not only are subject to ineligible expense rules, operating expense limitations and corporate operations expense caps, but also are subject to “time value of money” disadvantages in that they are recovered only on a “dollar-for-eligible dollar” basis (with no return or profit) at a time often considerably after they were paid.

A
The Commission Should Not Further Reduce Its Section 54.302 Limit on Total Monthly USF Support

WTA sees no indication that substantial public interest or budgetary benefits are likely to result from a reduction of Section 54.302’s current $250 per month per line cap on total high-cost support (other than CAF-ICC) to $225 or $200. It is WTA’s understanding that fourteen (14) RLEC study areas are currently subject to the existing $250 limit and that a reduction of the limit to $225 would affect an additional eleven (11) RLEC study areas (for a total of 25), and that a reduction of the limit to $200 would affect twenty-seven (27) more study areas than at present (for a total of 41).

WTA is aware of estimates that reducing the limit to $225 per line per month would shift approximately $696,778 of monthly high-cost support (an increase of approximately $305,882 per month) away from the 25 affected study areas, and that a reduced $200 limit would shift $1,481,466 of monthly high-cost support (an increase of approximately $1,090,570 per month) away from the 41 affected study areas.

What the Commission needs to keep in mind is that some areas are very expensive to serve and would not have been served and may not continue to be served without expectations of sufficient high-cost support. The existing corporate operations expense limitation [Rule Section 54.1308(a)(4)], operating expense limitation [Rule Section 54.303(a)], and capital investment allowance [Rule Section 54.303(b)], plus the new rule declaring certain expenses ineligible for

high-cost support calculation purposes [Rule Section 54.7(c)] will reduce or restrict the investment and operating costs recoverable via high-cost support. However, in some portions of the nation, combinations of remote locations, rough terrain, harsh climate and/or low population density have long made it very expensive – on an absolute and/or per customer basis – to provide traditional voice telecommunications services, much less burgeoning fiber-intensive broadband services, to such areas. Most of the 14-to-41 affected study areas were unserved or severely underserved for decades – often by-passed not only by the Bell Companies and mid-sized independents, but also by many RLECs -- because they cost much more to serve than more densely populated areas. After decades of neglect, they generally were finally served by very small local RLEC entities that not only agreed to serve high-cost areas that no other carriers wanted but also lacked (and continue to lack) the economies of scale necessary to help them spread or reduce the high costs.

In other words, the study areas subject to the existing Section 54.302 cap and the *NPRM's* contemplated reduced caps are largely areas for which there has never been a perceptible private sector business case for providing broadband and high quality voice-grade service and for which high-cost support was essential to establish and maintain service for people who otherwise might still remain unserved.

WTA understands that, if considered in isolation, reduction of the Section 54.302 cap from $250 to $225 or $200 would free up some budget headroom. However, the budgetary relief available to other RLECs would be significantly outweighed by the potentially crippling high-cost support reductions imposed upon the 14-to-41 affected high-cost RLECs. Therefore, if the Commission determines to retain Section 54.302, WTA urges it to keep the cap at its present $250 per line per month level and not to reduce it to $225 or $200.

B
The Commission Should Not Replace Its Unsubsidized Competitor Challenge Processes with Reverse Auctions

The Commission adopted its existing rule regarding the elimination of high-cost support in areas with 100 percent overlap by an unsubsidized competitor in the 2011 *USF/ICC Transformation Order* [31] and later codified it in Section 54.319 of the Rules. It was based upon a National Cable & Telecommunications Association ("NCTA") proposal to reduce or eliminate high-cost support in areas served by extensive, unsubsidized facilities-based competitors where government subsidies are no longer needed to ensure that service is available to consumers. This approach may make sense in an area where a fiber optic or fiber-coax cable television system not receiving any direct or indirect government subsidies: (i) can provide reliable voice and broadband services that are of comparable quality to those provided by an RLEC receiving high-cost support; and (ii) can readily offer increased broadband speeds in a scalable manner in response to increased customer bandwidth demands. In stark contrast, it does not make sense, and is not beneficial to customers, if an entity that claims to be providing a "competitive" voice and broadband service capable of supplanting an RLEC in a certain area (so that the RLEC's high-cost support can be reduced or eliminated) cannot serve all of the households and businesses served by the RLEC in that area, employs a technology that is more susceptible than the RLEC's network to frequent disruption by weather and foliage conditions, is more subject than the RLEC to congestion and service quality degradation on certain routes during peak usage periods, and cannot readily scale up its network in order to satisfy consumer demand for increased broadband speeds. In sum, the critical consideration that must be kept in mind with respect to any unsubsidized competitor challenge process is not current budget issues, but rather

[31] *USF/ICC Transformation Order*, 26 FCC Rcd 17,663 (2011) at ¶¶283-84. The rule initially encompassed High Cost Loop Support ("HCLS") and Interstate Common Line Support ("ICLS"), and now covers HCLS and CAF-BLS.

the nature and quality of the broadband service that will remain available to the affected customers in both the short term and the long term.

The existing Section 54.319(a) 100 percent overlap challenge process worked well in 2015 and 2017. In 2015, the Wireline Competition Bureau made a preliminary determination on the basis of known incomplete and insufficient FCC Form 477 data that 15 RLEC study areas appeared to be subject to 100 percent overlap by an unsubsidized competitor or combination of unsubsidized competitors. After taking comments and reply comments from interested parties, the Bureau found in one instance that a cable television competitor had submitted sufficient uncontested evidence to demonstrate that it provided the requisite levels and qualities of fixed-voice and broadband services to 100 percent of the RLEC high-cost support recipient's study area, and hence that the RLEC's support should be transitioned to zero. In another instance, the Bureau determined that the fixed wireless provider that claimed to serve the predominant portion of an RLEC's study area did not in fact meet the Commission's minimum standards for service to all locations and had failed to establish that it was willing and able to provide the requisite service to all requesting locations within seven to ten business days, and hence that the targeted RLEC should continue receiving support. In a third instance, the Bureau found that an RLEC's revised study area boundaries indicated that it was not 100 percent overlapped, while in the remaining twelve instances the Bureau found that the alleged unsubsidized competitors did not submit sufficient evidence of actual service to show that the subject RLEC study areas were in fact 100 percent overlapped.[32]

In 2017, the Bureau published a preliminary list of 13 RLEC study areas potentially subject to the 100 percent overlap rule. By a subsequent Public Notice, the Bureau announced that the responsive comments and reply comments did not provide evidence to confirm that any

[32] *In the Matter of Connect America Fund*, Order, WC Docket No. 10-90, DA 15-1419 (WCB, December 15, 2015).

of the 13 study areas were in fact actually served 100 percent by unsubsidized broadband competitors.[33]

WTA believes that the existing 100 percent overlap challenge process has worked effectively to ensure that the rural customers in the potential "competitive" study areas did not suffer a short-term or long-term loss or degradation of their actual service. Where a cable television company showed in 2015 that it was able to provide comparable 10 Mbps/1Mbps broadband service to the entire subject study area, the Bureau froze and phased down high cost support for the RLEC that had been serving the study area without adversely impacting the quality of the service available to the affected rural businesses and households. Likewise, where a fixed wireless provider's service claims were contested and unable to be substantiated, the residents of the subject study area were not exposed to potential loss or degradation – in the short or long term – of the broadband service capabilities, reliability and scalability of the FTTP network that had been deployed (but not yet fully paid for) by the incumbent RLEC.

WTA does not believe that the Commission's perceived "lack of participation" by unsubsidized competitors in fact reflects an "absence of incentives to participate" in the 100 percent overlap challenge process (*NPRM* at ¶161). Whereas the cable television industry was the primary proponent of the Commission's unsubsidized competitor policies and procedures, the fact is that the vast majority of cable operators and systems limit their service to relatively densely populated towns, villages and other incorporated communities in rural America, and make little or no effort to extend their networks and services into the more sparsely populated outlying countryside that would enable them to serve 100 percent of most RLEC study areas. Representatives of another type of potential unsubsidized competitor – wireless Internet service

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[33] Public Notice (*Wireline Competition Bureau Concludes the 100 Percent Overlap Challenge Process*), WC Docket No. 10-90, DA 17-1079, released November 2, 2017.

providers ("WISPs") – have admitted in comments filed with the Commission that "it is not possible to determine with any certainty what potential customers will be or would be readily served using fixed wireless technology until an on-site technical assessment is made."[34] That is, WISPs have declared that they "often cannot determine with certainty whether [their] service is 'available' until a skilled installer is working on the potential customer's premises."[35] This inability to determine the availability of their service at various locations not only explains why WISPs may have elected not to participate in 100 percent overlap challenges but also constitutes a substantial reason why WISPs cannot replace or displace RLECs in many rural areas without a substantial risk of loss or degradation of existing and future broadband services for significant numbers of existing customers. Finally, most rural areas are difficult and expensive to serve, including constant battles against terrain and weather conditions. If an alleged unsubsidized competitor does not have sufficient "incentive" to invest and participate in the Commission's challenge processes, it is unlikely to have the perseverance necessary to deal with the unique, difficult and never ending challenges of providing voice and broadband telecommunications services in rural areas.

In 2016, the Commission adopted a further challenge process and rule – Section 54.319(d) – that would reduce and then eliminate CAF-BLS support in census blocks where an unsubsidized competitor (or competitors) offers service meeting the Commission's public interest obligations to at least 85 percent of the locations in each such census block. This census block challenge process, which is to be conducted at seven-year intervals, is accompanied by the detailed disaggregation procedures and transition periods of Sections 54.319(e) through (h) of

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[34] "Comments of the Wireless Internet Service Providers Association, WC Docket No. 11-10, dated October 10, 2017, at p. 11.

[35] *Id.,* at p. iii.

the Rules.[36] Section 54.319(d) was part of an extensive negotiated 2016 package of changes affecting the high-cost support of cost-based RoR carriers that included a new operating expense limitation, a new capital investment allowance, a new budget control mechanism, broadband deployment obligations and reduction of the interstate rate of return. Whereas the major portion of this package was comprised of changes likely to reduce or limit the high-cost support of cost-based RoR carriers, the expanded CAF-BLS mechanism was welcomed as an opportunity to receive support for the first time for the broadband-only services demanded by increasing numbers of rural customers and as an incentive and instrument to deploy and upgrade RLEC broadband networks. Whereas the new Section 54.319(d) census block challenge process created some uncertainty regarding the continuing availability of CAF-BLS support, the accompanying burden of proof imposed upon alleged unsubsidized competitors to demonstrate that they served "85 percent of locations in each census block," as well as the associated disaggregation provisions, offered some stability to encourage broadband investment and ease high-cost support transitions in areas where unsubsidized competitor challenges might be made.

The Bureau has not yet implemented and conducted the Section 54.319(d) census block challenge process. In October 2016, WTA submitted a proposed form that it had developed for use with respect to the submission and analysis of information relevant to the evidentiary burden to be borne by alleged unsubsidized competitors in each census block where they claimed that an RLEC should no longer receive CAF-BLS support.[37]

WTA vigorously opposes the option of "using an auction mechanism to award support to either the incumbent LEC or the competitor(s) in areas where there is a significant competitive

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[36] *Connect America Fund et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90 and 14-58 and CC Docket No. 01-92, 31 FCC Rcd 3087 (2016), at par. 116, 121-32 ("*2016 USF Reform Order*").

[37] Letter from Gerard J. Duffy, WTA Regulatory Counsel, to Marlene H. Dortch, Secretary, filed October 24, 2016 in *Connect America Fund*, WC Docket No. 10-90.

overlap." (*NPRM* at ¶162.) It opposes a reverse auction or any other type of auction as an alternative either to the existing Section 54.319(a) 100 percent overlap challenge process or to the not-yet-implemented Section 54.319(d) census block challenge process. There is probably no more effective way than a "winner-take-all" auction process to ensure that most broadband investment, deployment and upgrades will come to a near or complete halt in study areas for which such auctions appear somewhat likely to be conducted.

Reverse auctions make sense for unserved areas, including extremely high cost unserved areas. There, as in the upcoming CAF Phase II auction, potential broadband service providers[38] can determine what type of new network they can construct that will most effectively and efficiently serve a particular area and the minimum amount of high-cost support they will need to construct and operate the new network. In stark contrast, reverse auctions make little sense for study areas already served by broadband networks and pose a significant risk of destroying or degrading the existing broadband services relied upon by local households and businesses. The RLECs serving such areas already have substantial broadband investment and facilities in the ground, work forces to pay, and often outstanding construction loans to repay. Most such RLECs are receiving high-cost support based upon Fiscal Year 2011 costs and disbursements (often subject to reduction from budget control mechanisms) that is not sufficient to keep up with the demands of their rural customers for higher and higher broadband speeds. If they are forced to bid for lower and lower amounts of high-cost support in order to "win" an auction for their study area, the resulting fraction of an already insufficient support amount can only mean further reduction of broadband extensions and upgrades and further curtailment of existing maintenance and operations. If they are not able to prevail in such auctions, the consequences can range from

[38] Many of the "unserved" areas in the CAF Phase II auction appear to have some type of voice service, but lack significant broadband facilities and services.

substantial reductions of service and service quality to defaults on construction loans to termination of services and operations and stranded investment. Auctions also pose a danger of unrealistic or unscrupulous competitors who may enter bids for high cost support that are low enough to win, but wholly insufficient to construct and operate their proposed networks. The Commission will certainly enforce its rules and penalize non-compliant auction winners, but violations may not become apparent and be prosecuted for several years after the auction, and by that time many of the RLECs that lost auctions may no longer be capable of serving the affected study areas. The ultimate "losers" in such unfortunate situations will be the households and businesses of the affected areas that are likely to be left without adequate broadband service.

Moreover, the concept of an auction is wholly inimical to the purposes of the 100 percent overlap and census block challenge processes of Section 54.319 – specifically, to eliminate the need for any future high-cost support in areas where unsubsidized competitors provide equivalent broadband services to local customers. If an unsubsidized competitor demonstrates that it provides or can immediately provide equivalent service to 100% of the locations in an RLEC study area or to 85% of the locations in a census block, the logic of Section 54.319 is that no one should get high-cost support for serving the subject area in the future – not that entities should "compete" for lesser amounts of high-cost support for the area in the future. Put another way, if an unsubsidized competitor "wins" the contemplated auction for a particular RLEC study area and the defeated RLEC is able to remain in business for at least a while, is not the RLEC then an "unsubsidized competitor" that makes it unnecessary to provide high-cost support to the "winner" of the reverse auction?

Finally, an auction is not likely to require less Commission evidentiary review or fewer administrative resources, or to be more efficient or effective, than the present Section 54.319

challenge processes. For example, current FCC Form 477 data indicate only that the filer offers service to at least one location in a census block, but provides no indication of the total number and percentage of locations that are served or that can readily be served by the filer in a particular study area or census block. Whether it adopts a 70% or 85% or 90% or 100% threshold for determining the portion of a study area that must be overlapped by an alleged unsubsidized competitor in order to trigger an auction, the Form 477 data will not contain this information and the Commission will need to require and evaluate evidence regarding the number and percentage of locations served by the alleged "competitor" as well as its legal, technical and financial qualifications. Whereas it may be "quicker" for the Commission to look only or primarily at FCC Form 477 data, that approach will not show the extent of competitive coverage and poses a substantial risk of service losses and disruptions for the affected rural customers because it creates the possibility that the RLEC serving a study area can lose its high-cost support and be "replaced" by a "competitor" that can serve only one or a small fraction of the locations in the subject study area.

In sum, WTA urges the Commission to restrict its use of "winner-take-all" reverse auctions to the types of unserved areas for which they are effective and efficient, to retain its proven Section 54.319(a) 100 percent overlap challenge process, and to implement its ultimate Section 54.319(d) census block challenge block with evidentiary requirements like those developed and submitted by WTA in October 2016 in WC Docket No. 10-90.

C
The Commission Should Not Combine the HCLS and CAF-BLS Mechanisms at This Time

If a high-cost support mechanism based upon actual costs were being developed for the first time for cost-based RoR carriers, it may well be simpler, more efficient and more flexible to construct and implement a single comprehensive mechanism. However, at this time, any attempt to combine the existing and separately evolved HCLS and CAF-BLS mechanisms is likely to generate complexities, uncertainties, support changes and unforeseen consequences that will not justify the effort involved and that will overshadow its potential benefits.

HCLS, the successor of the original USF that was created and implemented after the Bell System divestiture in the mid-1980s, provides support for the "last mile" connections of RLECs in order to keep local service rates affordable in areas where the relevant costs exceed 115 percent of the national average cost per line.

CAF-BLS is essentially composed of two separate mechanisms. It began in the late 1990s with the Interstate Common Line Support ("ICLS") mechanism which was implemented to offset reductions of interstate access charges and which serves to help carriers recover their common line revenue requirement while keeping subscriber line charges ("SLCs") affordable. It was renamed and expanded in 2016 to include support also for CBOL services.

HCLS and CAF-BLS have been set up to avoid double recovery of the same expenses from both mechanisms. However, due to their separate origins and developments, they are similar in some ways and different in others. For example, HCLS is based in significant part upon investment costs from two years prior, while CAF-BLS is based upon projected data for the coming year that is subsequently trued up. HCLS and ICLS both allocate 25% of relevant loop costs to the interstate jurisdiction, while CBOL is based upon an allocation of 100% of the cost

of broadband-only lines to the interstate jurisdiction. HCLS has its own separate cap and is subject to the budget control mechanism while CAF-BLS is subject only to the budget control mechanism.

WTA recognizes that HCLS and CAF-BLS have become more complex as they have developed and been reformed since the 1996 Act. However, at this time, RLEC staffs, RLEC consultants, NECA, USAC and the Commission staff are all relatively familiar with the existing rules, data, accounting, filing requirements and distributions for the established mechanisms. Combining, revising and reorganizing the multiple mechanisms into a single new one would require substantial accounting and administrative changes, as well as re-training and re-education, for all of the entities involved. Likewise, it is WTA's understanding that RLEC networks can differ significantly in the relative amounts of HCLS and CAF-BLS that they receive, and that merger and/or consolidation of the mechanisms may result in substantial increases or decreases of high-cost support for some RLECs depending upon how the combination is designed. Third, the very process of consolidating mechanisms that are based upon differing allocations, time periods, limitations, facilities and policy rationale can be very complicated, and result in vigorous disputes and incompatible alternatives as well as difficulties in making sure that all relevant costs are recovered but not double recovered. Fourth, it is highly likely that a complex HCLS and CAF-BLS consolidation process will result in unforeseen problems and consequences. Finally, the Commission should allow the changes that were made in the *2016 USF Reform Order* and subsequent clarifications to take hold and evaluate how well they are working before initiating another major overhaul of the RLEC mechanisms.

In sum, WTA believes that a single RLEC high-cost program would be feasible if we were starting from scratch, but that the likely costs of complexities, uncertainties and disruptions

of consolidating the existing HCLS and CAF-BLS mechanisms at this time would outweigh the likely achievable benefits.

D
It Is Not Clear that the 2015 Proposal To Include Stand-Alone Broadband Lines in HCLS and ICLS Can Be Revived At This Time

When initially advanced in June 2015, then Commissioner Pai's proposal to include stand-alone broadband costs when calculating HCLS and ICLS constituted a potentially efficient and workable solution to the stand-alone broadband problem. By treating voice/broadband and broadband-only lines the same for high-cost support purposes, it would have avoided the anomalous and customer-infuriating problem of substantial increases in monthly service rates when a household dropped its voice service – an anomaly resulting from the fact that broadband-only lines were not then eligible for high-cost support.

Three years later, it may not be a simple and straightforward task to turn the clock back from CAF-BLS to ICLS. During the interim, broadband has become more and more the primary service demanded by customers while voice service has become more and more one of many applications riding on top of broadband services. CAF-BLS, with its theoretical support (*i.e.*, before the impact of the Section 54.901(f) budget control mechanism) of 100% of the broadband loop costs that are allocated to the interstate jurisdiction, is designed to encourage the deployment and extension of higher and higher speed broadband networks to meet these consumer demands.

It is not clear to WTA what would be the impact upon broadband investment and deployment of dialing back the current CBOL and ICLS elements of CAF-BLS to an ICLS-only mechanism. This essentially would mean that that the costs of all voice/broadband and broadband-only loops would be allocated 25% to the interstate jurisdiction for purposes of ICLS

high-cost support. What will happen to the remaining 75% of loop costs? Will they be allocated to special access service categories where they can substantially increase rates for business services and/or to wholesale broadband lines? Or will they be stranded and non-recoverable, which will discourage and impair the broadband deployment that is otherwise desired? WTA is well aware that this 75% allocation problem exists with respect to voice/broadband lines but believes that it is declining in scope as more and more customers drop their traditional Time Division Multiplexed ("TDM") voice services in favor of CBOL service.

E
Comments on Other Alternatives

Finally, the potpourri of USF reform alternatives listed in paragraph 166 of the *NPRM* have all been raised and considered since the USF was established in the mid-1980s, and have been found wanting.

First, there is no clear need to overextend limited high-cost support resources to serve low-income areas that are not also high-cost areas. High-cost support mechanisms have been developed to encourage and enable the construction, operation and maintenance of telecommunications networks in areas where terrain, climate and/or population density would otherwise not present a desirable business case for purely private investment. This holds true for remote areas even if purportedly wealthy business executives and entertainers subsequently buy or sell farms or ranches there. Without the underlying networks, neither wealthy part-time residents nor the predominant not-so-wealthy rural residents would be able to access quality telecommunications and information services reasonably comparable to those available in urban areas.

In contrast, low-income households can reside in both higher-cost rural areas and lower-cost urban areas. In densely populated urban areas, telecommunications networks are not

relatively expensive to construct, operate and maintain on a per-line or per-customer basis. In remote and high-cost rural areas, the underlying network supported by high-cost mechanisms is necessary to serve all residents, including low-income rural households. The Lifeline mechanism was designed and intended to bridge these differences, by offering funding to assist low-income households in both urban and rural areas to purchase needed telecommunications services. Consequently, there is no need to target high-cost support mechanisms to serve low-income areas that are not also high-cost areas.

Likewise, means testing and vouchers make little sense and would generate crippling uncertainties and wasteful administrative costs if imposed upon RLECs and other recipients of support from existing or future high-cost mechanisms. The key fact that must be kept in mind is that the purpose of high-cost support mechanisms is to encourage and enable the *construction, operation and maintenance of networks*. People are born and die, and families move in and move away, but an underlying network must be in place to serve geographic areas as their populations and demographics change and evolve.

Means testing would entail substantial administrative efforts, difficulties and costs. Most people will not readily or voluntarily tell their telecommunications carrier anything about their personal or family income or wealth. Rather, carriers would be forced to expend substantial resources that would better be used to deploy broadband or improve service quality in trying to collect, verify and analyze the income, wealth or other "means" of their customers. And even if carriers could collect and analyze accurate information in a timely and cost-effective manner, they would face an equally difficult, dangerous and expensive task of protecting such private and personal information from identity thieves and others who would try to access and steal it for criminal and other unlawful purposes.

Vouchers are another previously raised and rejected alternative. A voucher that allows a customer to change the carrier designated to receive the high-cost support associated with his or her location on an annual or other periodic basis simply is not workable in an industry where networks must be constructed for 20-to-30-year useful lives and financed by loans that must be repaid over similar lengthy periods. In addition to violating the Section 254(b)(5) principles that federal high-cost support must be specific, predictable and sufficient, vouchers would create so much unnecessary uncertainty about future revenue streams that carriers would have little or no incentive to make substantial broadband investments while lenders would be extremely reluctance to finance such broadband projects.

In sum, high-cost support mechanisms need to continue their focus upon the construction, operation and maintenance of the underlying networks that can provide existing and future residents of rural areas with quality telecommunications and information services reasonably comparable to those available in urban areas. The current high-cost mechanisms have a very difficult task in furnishing the specific, predictable and sufficient support necessary to sustain these critical underlying networks. Their focus should not be diverted, not their limited resources dissipated, to address income, wealth, voucher and similar issues relating to customers who may move into and out of the affected rural service areas and who may be eligible for Lifeline and other federal and state assistance.

VII
Conclusion

WTA supports review of the $2.0 billion RoR high-cost support budget adopted in 2011, and proposes that it be increased sufficiently to enable all ACAM participants and cost-based RLECs to continue to participate in the transformation of the underlying public telecommunications network from the voice/low-speed broadband network of 2011 to today's rapidly evolving high-speed broadband network.

In light of the substantial broadband-related increases in fiber deployment, labor, network security and other costs since 2011, WTA has developed a proposed 2018-2026 RoR budget that includes full funding of support for existing ACAM participants at a cap of $200 per location, as well as full funding of CAF-BLS support and a frozen cap for HCLS support (due to elimination of the rural growth factor) for cost-based RLECs. The WTA budget proposal (which is based largely upon Commission proposals and assumptions in Appendix E of the Commission's *2016 USF Reform Order*) calls for a total RoR budget of $2.426 billion for 2018 (which includes the existing $200 million of additional CAF Reserve funding for ACAM), and for gradual annual increases that will ultimately reach a total RoR budget of $2.975 billion in 2026 (again including CAF Reserve dollars not previously deemed to be part of the stated RoR budget).

WTA supports a second ACAM glide path offer, and recognizes that substantial voluntary participation by additional RLECs can reduce RoR budget problems. At minimum, WTA urges that new glide path support be offered at the same $200 per location funding cap provided to existing ACAM glide path recipients, and that otherwise qualified RLECs that were ineligible for the initial 2016 ACAM glide path offer due to their prior deployment of broadband facilities and services be allowed to participate. In the alternative, adjusting the funding cap to

limit support losses to 5 percent or so for each glide path RLEC could significantly increase voluntary ACAM glide path participation and further aid the resolution of RoR budget issues.

If the Commission, for any reason, determines that its USF resources are not sufficient to enable "full funding" of ACAM participants and cost-based RLECs, WTA believes that any support limitations or reductions necessary to meet budget goals must be shared equitably by both classes of RLECs and their rural customers. For example, the offer of additional high-cost support to existing ACAM participants can be made at a per-location funding level somewhere between $146.10 and $200, together with appropriate adjustments in the associated build-out obligations. Likewise, a reasonable threshold level of HCLS and CAF-BLS could be established that would not be subject to unpredictable "haircuts" like those imposed by the existing Section 54.901(f) and 54.1310(d) budget control mechanisms. WTA believes that the most equitable, effective and predictable alternative is to set an uncapped threshold of 90 percent of the moving average of each carrier's unconstrained claims for HCLS and CAF-BLS for the three preceding budget years.

WTA suggests that the Commission hold off on considering a broader new ACAM model offer until after it addresses and can determine: (a) the impact of its review and revision of the overall size of the RoR high-cost support budget; (b) the level of participation and amount of budgetary relief resulting from a second ACAM glide path election; and (c) the availability of full funding for existing ACAM carriers and cost-based HCLS and CAF-BLS recipients. Only when these matters and questions are resolved can the parameters and incremental budgetary impact of a new broader ACAM model offer be reasonably analyzed and resolved.

If adopted and implemented, the foregoing overall RoR budget, ACAM support and cost-based RLEC support proposals would constitute a substantial improvement in the predictability

and sufficiency of the RLEC high-cost support mechanisms and a major step toward the goal of reasonably comparable broadband services and rates in rural America. In contrast, alternatives such as the reduction of the Section 54.302 cap on total high-cost support, consolidation of HCLS and CAF-BLS into a single mechanism, expansion of high-cost support to include low income areas that are not high-cost areas, conduct of customer means testing, and adoption of winner-take-all reverse auctions would appear to detract from these goals by reducing the RLEC resources available for broadband deployment and otherwise discouraging future broadband investment.

Respectfully submitted,
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Exhibit A

WTA Proposed Total RoR High-Cost Support Budget

2018-2026

Projected High Cost Funding Requirement
with HCLS Frozen at current level ($M)

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
HCLS	$ 579.204	$ 572.441	$ 572.441	$ 572.441	$ 572.441	$ 572.441	$ 572.441	$ 572.441	$ 572.441	$ 572.441
SNA	$ 4.093	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
SVS	$ 4.964	$ 4.964	$ 4.964	$ 4.964	$ 4.964	$ 4.964	$ 4.964	$ 4.964	$ 4.964	$ 4.964
CAF BLS	$ 769.196	$ 837.032	$ 909.812	$ 983.827	$ 1,059.067	$ 1,135.228	$ 1,210.047	$ 1,280.149	$ 1,343.585	$ 1,389.705
CAF BLS True-Ups	$ 9.571	$ 10.287	$ 11.182	$ 12.091	$ 13.016	$ 13.952	$ 14.871	$ 15.733	$ 16.513	$ 17.079
Loop Related High Cost Support	$ 1,367.028	$ 1,424.726	$ 1,498.399	$ 1,573.324	$ 1,649.489	$ 1,726.586	$ 1,802.324	$ 1,873.288	$ 1,937.504	$ 1,984.190
A-CAM	$ 528.355	$ 528.355	$ 528.355	$ 528.355	$ 528.355	$ 528.355	$ 528.355	$ 528.355	$ 528.355	$ 528.355
Alaska Plan	$ 44.663	$ 44.663	$ 44.663	$ 44.663	$ 44.663	$ 44.663	$ 44.663	$ 44.663	$ 44.663	$ 44.663
CAF-ICC	$ 400.435	$ 391.922	$ 388.937	$ 382.586	$ 372.861	$ 361.636	$ 350.095	$ 338.268	$ 326.295	$ 314.746
Additional A-CAM from March 2018 Order & FNRM										
Fully Fund $146.10		$ 36.500	$ 36.500	$ 36.500	$ 36.500	$ 36.500	$ 36.500	$ 36.500	$ 36.500	$ 36.500
Fully Fund $200			$ 66.600	$ 66.600	$ 66.600	$ 66.600	$ 66.600	$ 66.600	$ 66.600	$ 66.600
Total Requirement	$ 2,340.482	$ 2,426.166	$ 2,563.455	$ 2,632.028	$ 2,698.469	$ 2,764.341	$ 2,828.538	$ 2,887.674	$ 2,939.917	$ 2,975.055

Notes:

1 Starting point for this analysis is the pre-budget controlled amounts included in USAC projection for 1st half of 2017. These amounts were then annualized.
2 The analysis is based on final decision for study areas opting for ACAM or Alaska Plan as of 1/19/2017
3 Analysis assumes ACAM Companies share of 2017 budget controlled support equals approximately $528 Million inclusive of average transition payments. ACAM support remains constant throughout the analysis
4 Analysis assumes Alaska Plan Companies share of 2017 budget controlled support equals approximately $44.7 Million (2015 Legacy per FCC 16-155 @47) with the difference funded from other sources
5 Safety Net Additive Support is projected to lapse after 2017 and is not reflected in the projected amounts for 2018 and beyond
6 Safety Valve Support is a fixed amount at its 2017 level throughout the entire projection
7 CAF-BLS amounts are adjusted annually to reflect growth rates that are consistent with the assumptions set forth in Appendix E of FCC 3/30/2016 Order
8 True-Ups to CAF-BLS are projected based on the relationship of current true-ups to projected CAF-BLS amounts included in the USAC 2017 1st half projection
9 CAF-ICC amounts are adjusted annually to reflect growth rates that are consistent with the assumptions set forth in Appendix E of FCC 3/30/2016 Order
10 Rate of Return adjustment factor applied to annualized 2017 data. Calculated results for 2018-2021 include rate of return adjustment in underlying data
11 Data for Sandwich Isles is included in this analysis for 2018 and forward, consistent with buildout requirements
12 Additional A-CAM amounts from March 2018 Order, Order on Reconsideration, and FNPRM