



September 7, 2018

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

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

Dear Ms. Dortch:

On Wednesday, September 5, 2018, Mark Gailey of Totah Communications; Lynn Merrill, P.E. of Monte R. Lee and Company; and Derrick Owens, Eric Keber, Bill Durdach and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) met with Jay Schwarz, Wireline Advisor to Chairman Ajit Pai, to discuss concerns regarding the *Order*, DA-18-710, released July 6, 2018, in the referenced docket regarding the speed and latency performance testing framework for certain recipients of high-cost universal service support.

WTA recognizes that the Commission has a statutory duty to ensure that universal service support is used for the purposes intended, and that recipients of high-cost support must offer broadband services that meet certain basic performance requirements as a condition of receiving such support. The problem with the testing framework adopted in the *Order* is that it was not designed with rural local exchange carriers (“RLECs”) in mind, and imposes unnecessary burdens, practical difficulties and excessive costs upon them that will impair their ability to deploy and upgrade their broadband services. WTA intends to file an appeal of the *Order*, but is willing to work with the Commission and its staff to develop a practicable and reasonable performance testing framework for RLECs.

Mr. Merrill explained that much of the contemplated broadband performance testing equipment is not yet available, and may not be readily available at affordable costs for small carriers for several years. And even when affordable testing equipment becomes available, it may not be compatible with some existing RLEC network equipment. Mr. Gailey indicated that Totah’s networks were built with equipment from two different manufacturers, one of which has discontinued operations and no longer supports its equipment. Whereas the discontinued manufacturer’s equipment is still functional and operational, it is not clear whether or how well it might work with future testing equipment. In other instances, Mr. Merrill was aware of older gateway routers that work well providing testing to eliminate truck rolls, but were not designed for performance certification processes and may not have the capacity to accommodate performance grade/level testing software needed to meet the Commission’s testing requirements.

WTA questioned the need for a week of performance testing data for each subject RLEC during each of the four seasons of the year. Mr. Gailey noted that the 6:00 PM to midnight testing period would

require overtime pay, and noted that the testing requirements, if not modified, would require Totah to hire and train at least one additional full-time employee.

Mr. Gailey noted that performance testing will be a customer relations nightmare for RLECs. It is going to be extremely difficult to find 20-to-50 households in many rural areas willing to have their Internet service tested, much less to obtain new consents and employ a new random sample every two years. In the case of Totah and other RLECs that sell modems to their customers, permission will need to be obtained not only for the performance testing itself but also for installing testing equipment or software within the customer's premises or equipment. And, after testing is completed each quarter, any problems that the customer has with computer viruses or speed slowdowns is likely to be blamed on the RLEC testing.

WTA noted that its request that performance testing be limited to each covered RLEC's own network – where it can exercise control over speed and latency – was rejected in the *Order*. WTA reiterated that it is unfair to penalize RLECs for middle mile problems (such as poor quality facilities, normal congestion, increased congestion due to line cuts and other emergencies, and unpredictable routing changes to more distant Internet Exchange Points) that are outside their control and that adversely impact speed and latency. WTA also noted that customer premises issues outside RLEC control (such as the connection of too many devices to a household's modem) can also reduce speed and impact latency.

WTA recognizes that the *Order* approves the use of financial incentives (such as a period of free service) to try to get rural customers to agree to participate in performance testing. These incentives may or may not have some value in obtaining test participants (although compensation demands are likely to increase as a household goes through eight quarterly test periods over two years). More important, such incentives constitute an additional testing cost piled on top of costs including, but not limited to, new testing equipment and licenses, modifications to existing network equipment to accommodate testing equipment and software, the hiring and training of new employees, evening overtime pay, truck rolls to rural test households, installation and removal of equipment inside customer households, handling of customer negotiations and complaints, compilation and reporting of test data, and increased middle mile costs. WTA has long asserted that the imposition of new regulatory and reporting costs upon RLECs reduces dollar-for-dollar the amount of net high-cost support available to upgrade and operate their broadband networks. In the case of the contemplated performance testing framework, these adverse net impacts are likely to be substantial.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceedings.

Respectfully submitted,

/s/ Gerard J. Duffy

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