



March 7, 2019

**Filed Via ECFS**

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 Tuesday, March 5, 2019, Derrick Owens, Eric Keber, Bill Durdach and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) and approximately thirty members of WTA’s Public Policy Committee met with Travis Litman, Chief of Staff and Senior Legal Advisor, Wireline and Public Safety, to Commissioner Jessica Rosenworcel, to discuss the performance testing requirements for rural telecommunications companies (“RLECs”) and other small carriers, the current status of the voice service rate floor and the length and cost of Universal Service Administrative Company (“USAC”) audits.

WTA and its members stressed that they do not oppose requirements for testing of their networks to ensure that their high-cost support is being used for the required purposes. Rather, as detailed in WTA’s September 19, 2018 Application for Review, the problem is that the testing requirements adopted in the July 2018 *Performance Testing Order*<sup>1</sup> were designed primarily for large price cap carriers, and do not take into account the very different sizes, resources and operating circumstances of RLECs. WTA has requested a substantial deferral of the scheduled Third Quarter 2019 commencement of performance testing by RLECs, and an opportunity by RLEC representatives to work with the Commission during the deferral period to develop more reasonable and practicable testing procedures for RLEC high-cost support recipients.

It makes no sense to require RLECs to begin performance testing during the Third Quarter 2019 because much of the testing equipment they are likely to need is still being developed by vendors with no indication when it will be commercially available in sufficient quantities, and because recent communications by WTA members with USAC have indicated that USAC has not completed its testing protocols and still has significant unresolved issues. A reasonable delay (WTA has suggested two years) is needed to allow RLEC representatives and other interested parties to work with the Commission’s staff to develop a more practicable and better targeted set of small company performance testing requirements and procedures. In addition, WTA members have indicated that the ultimately required formal RLEC performance testing rules can operate much more efficiently, effectively and equitably if RLECs are also given a period of six months or more to engage in informal

---

<sup>1</sup> *Connect America Fund*, Order, WC Docket No. 10-90, DA 18-710, released July 6, 2018 (“*Performance Testing Order*”).

practice testing to discover and resolve potential equipment and procedural problems before being required to initiate formal testing.

The WTA members indicated a significant number of practical performance testing concerns, including: (1) that the number of required test locations per service tier is excessive for RLECs, particularly given the reluctance of many rural residents to participate in federal testing of their Internet service; (2) that the requirement to test services at supported speeds will force RLECs to increase or decrease the service provided to certain sampled customers during testing periods, which will generate customer dissatisfaction and complaints and increase the reluctance of customers to participate in testing; (3) that RLECs have little or no control over the WiFi gateways, routers, modems and other equipment owned and used by their customers, nor of the numbers and types of connected in-home customer devices that can slow the measured speed of their broadband service; (4) that the ultimate testing equipment developed by vendors may not be compatible with at least some existing customer premises equipment, and may force RLECs to replace such customer equipment at RLEC expense; and (5) that RLECs have little or no control over their middle mile transport, and of the routing of their broadband traffic between the point where they hand it off to a middle mile carrier and the Internet Exchange Point (“IXP”) at which speed is measured. Particularly given that a primary purpose of the Commission’s performance testing requirements is to ensure that RLECs are using their high-cost support for the required purposes, the WTA members urged that performance testing measurements and penalties be limited to the broadband networks and facilities that RLECs construct, operate, maintain and control.

The WTA members also stated that the equipment, labor and administrative costs of testing will significantly reduce the already limited resources that they have to deploy more broadband facilities and to further upgrade their broadband services. One WTA member indicated that his company would need to hire at least one new employee to help with the proposed testing requirements and that its estimated employee, equipment and other costs to conduct the currently required performance testing would be about \$250,000 per year.

WTA members noted that, if the voice rate floor is not eliminated or its current freeze extended, it can result in substantial and disruptive local voice service rate increases of approximately \$8.00 per month and exacerbate budget control mechanism issues by accelerating the migration of voice-broadband customers to broadband-only service. Whereas WTA members ideally would prefer elimination of the rate floor, they emphasized that the critical need at present is for a Commission ruling on the issue much earlier than May 1, in order to avoid the commencement of state ratemaking proceedings, to enable accurate calculation of high-cost support projections, and to render unnecessary the provision of advance notice of voice rate increases to remaining voice service customers. Under the circumstances, the most practicable and effective solution may be extension of the current rate floor freeze to July 1, 2024.

Finally, several WTA members indicated that USAC audits appear to be becoming increasingly lengthy and expensive. Several noted their awareness of audits that have entailed multiple on-site visits and extensive questions and document requests, and that remain open at least 18 months to two years after their initiation with no final audit report in sight (and in some cases without even preliminary audit findings having been received).

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 proceeding.

Respectfully submitted,  
/s/ Gerard J. Duffy  
WTA Regulatory Counsel  
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP  
2120 L Street NW (Suite 300)  
Washington, DC 20037  
Telephone: (202) 659-0830  
Email: [gjd@bloostonlaw.com](mailto:gjd@bloostonlaw.com)

cc: Travis Litman