

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

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
)
Petition for Clarification or Declaratory Ruling on the)
Definition of “Location” for Home Offices under the)
Connect America Fund – Alternative Connect America)
Cost Model)

**COMMENTS
OF
WTA- ADVOCATES FOR RURAL BROADBAND**

WTA – Advocates for Rural Broadband (“WTA”)¹ hereby submits its comments in support of the “Petition For Clarification Or Declaratory Ruling” filed by Northeast Iowa Telephone Company (“NEIT”) and Western Iowa Telephone Association (“WITA”) to seek clear guidance with respect to the definition and counting of “locations” for Alternative Connect America Cost Model (“ACAM”) purposes where structures contain both a residence and a home-based business. These comments are filed in response to the Commission’s Public Notice (*Comments Sought on Petition for Declaratory Ruling of Northeast Telephone Company and Western Iowa Telephone Association*), WC Docket No. 10-90, DA 19-579, released June 20, 2019.

Like NEIT and WITA, WTA members and other rural local exchange carriers (“Rural LECs”) have been relying upon the Commission’s instructions in its Public Notice (*Wireline*

¹ 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 predominately rural local exchange carriers that serve some of the most rugged, remote and/or sparsely populated areas of the United States. The primary service areas of WTA members are comprised of farming and ranching regions, isolated mountain and desert communities, and Native American reservations. WTA members are providers of last resort to many remote areas and communities that are both very difficult and very expensive to serve.

Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations), WC Docket No. 10-90, DA 16-1363, released December 8, 2016, in evaluating their ACAM and Connect America Fund – Broadband Loop Support (“CAF-BLS”) build-out obligations and in determining the numbers of locations to report to the High Cost Universal Service Broadband (“HUBB”) portal in compliance with their public service obligations. Specifically, many Rural LECs have followed the guidance in the Public Notice that they should report the housing units in their eligible service areas to which they have made broadband service available, as well as the locations of businesses to which they have made mass market broadband service available. In both cases, the Public Notice indicated that the controlling factor for purposes of “counting” a location was not whether the location was actually subscribing to the service, but rather whether the carrier was commercially offering the requisite mass market broadband services to the household or the business at the location and would be able to provide the services within 10 business days if the customer placed an order for them. Where locations serve as both a residence and a base for a home business, many Rural LECs have reasonably interpreted the Commission’s guidance as permitting them to count such locations as both a residential location and a business location.

However, the Universal Service Administrative Company’s (“USAC’s”) Frequently Asked Question (“FAQ”) cited by NEIT and WITA appears to contradict the Commission’s “offer of service” and “service within 10 business days” principles and to substitute instead a requirement that separate service must actually be ordered, subscribed and provided to a co-located home-based business before it can be counted as an additional “location.” Specifically, the USAC FAQ reads as follows:

Q. How should a carrier report deployment at a residence that also has a home-based business within the same structure?

A. A carrier receives credit for and must report the house regardless of whether the house subscribes to the service. For a carrier to count a business run out of a house or a business run out of a barn, shed or other structure on the property, there must be separate facilities (drop/line) and separate equipment (e.g., modem) and the business must separately subscribe (get its own bill) to at least the minimum speed required. See DA 16-1363 WCB Guidance on Location Reporting for Carriers Receiving CAF Support.

USAC's asserted requirement for an actual separate drop or line, separate subscription and separate bill for the home-based business disregards the Commission's established principle that a high-cost support recipient does not actually have to construct a drop or line, obtain a customer subscription and provide qualifying broadband service to a location before counting it towards its build-out obligation. Rather, the Commission's published statements and guidance have permitted high-cost recipients to count locations toward satisfaction of their build-out obligations if they construct facilities close enough to offer qualifying broadband service to such locations and can provide actual service to the locations within 10 business days of a customer request.

WTA understands that USAC is trying to avoid an inaccurate double-counting of locations that do not actually contain *bona fide* home-based businesses.² However, the Commission and its Wireline Bureau (under delegated authority) are the sole authorized and appropriate policy-making entities on universal service matters under the Communications Act of 1934, as amended. Hence, it is only the Commission and the Bureau that have the jurisdiction to establish location counting principles and methods – in this case, standards based upon “offers of service” and “provision of actual service within 10 business days” – and USAC has no right or power to supersede or modify such Commission or Bureau determinations by FAQ or other device. Therefore, the Commission's

² One way to accomplish this within the scope of the Commission's location counting standards would be to require a carrier to submit relevant proof of an established home business -- for example, a state or local business permit – in order to count a location as both a residential location and a business location

“offer of service” and “provision of actual service within 10 business days” should be the controlling principles for the counting of “locations” for residences, businesses and co-located home-based businesses.

WTA notes that the USAC FAQ also goes beyond the scope of its administrative authority by purporting to require actual separate drops or lines, separate subscriptions and separate bills for businesses run out of barns, sheds or other structures on a property. Particularly in light of the growing importance of precision agriculture, this is an issue that requires express Commission consideration and decision and that should not be resolved by USAC FAQ. See, for example, the Commission’s recent Public Notice (*FCC Announces the Establishment of the Task Force for Reviewing Connectivity and Technology Needs of Precision Agriculture in the United States and Seeks Nominations for Membership*). DA 19-568, released June 17, 2019. As the Commission seeks to promote effective policy and regulatory solutions that encourage the adoption of broadband Internet access services on farms and ranches and to promote precision agriculture, it needs to explore ways that high-cost support and related build-out obligations can support these efforts and goals, and to adopt appropriate policies and regulations to implement its determinations.

For all these reasons, the Commission should grant the relief requested by NEIT and WITA. Specifically, it should reiterate that its policies and procedures allow high-cost support recipients to count residential and business locations (including co-located home-based businesses) toward satisfaction of their build-out obligations if they construct facilities close enough to offer qualifying broadband service to such locations and can provide actual service to

the locations within 10 business days of a customer request, and should order USAC to revise its subject FAQ accordingly.

Respectfully submitted,
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