

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

In the Matter of)
)
Rural Digital Opportunity Fund) WC Docket No. 19-126
)
Connect America Fund) WC Docket No. 10-90

**REPLY COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND**

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Summary

WTA – Advocates for Rural Broadband (“WTA”) believes that the predominant purpose of the Rural Digital Opportunity Fund (“RDOF”) must be to enhance the broadband experience of existing and future rural broadband customers. To accomplish this, the CAF Phase II Auction procedures must be revised substantially before they can be employed effectively, efficiently and equitably in areas that already have existing high-speed 10/1 Mbps broadband networks and customers. Given that substantial numbers of existing broadband customers are present in the contemplated RDOF areas, the Commission must design its RDOF reverse auction procedures to give priority to customer service and protection considerations rather than driving high-cost support disbursements down to the lowest possible level.

WTA reiterates its proposal for grant of a substantial 25 percent RDOF bidding credit to existing CAF Phase II recipients that have met their 10/1 Mbps build-out obligations for the state in which the RDOF auction area is located. The predominant purpose of this bid credit is to increase the probability that existing broadband customers in RDOF areas can keep services and service providers that they like, and will not be required to purchase more expensive services or replace functional consumer premises equipment or learn how to use new interfaces due to auction-required changes in service providers and/or technologies. This bidding credit also encourages existing CAF recipients to meet their current build-out requirements, and avoids potential problems with stranded investment, unpaid construction loans and unrecovered facility costs with respect to broadband infrastructure that was required to be deployed pursuant to the rules governing the current CAF mechanism.

WTA reiterates its proposals for a number of changes to the CAF Phase II Auction weighting factors, the purpose of which is to maintain and improve the quality of service provided to existing and future customers while discouraging low-ball bidding strategies that would reduce service quality and customer satisfaction. The proposed revised weighting factors include: (a) a weighting preference for an Evolving Baseline Tier that would require the baseline broadband speed to be increased significantly during the ten-year RDOF term (*e.g.*, 25/3 Mbps for first 5 years, then 50/6 Mbps for years 6 to 10); (b) weighting preferences for symmetric speeds or tiers that will increasingly be needed as applications requiring higher upstream speeds proliferate; (c) a separate weighting preference for monthly usage allowances, including a substantial preference for the unlimited monthly usage desired by many customers; (d) a weighting preference for localized maintenance facilities and services capable of responding rapidly to trouble calls; (e) a weighting preference for voice service that is integrated into and coordinated with local E-911 facilities; and (f) an additional weighting preference for an optional very low latency level.

WTA also addresses other RDOF issues, including (a) the use of census blocks as bidding units in order to encourage greater participation by smaller bidders; (b) alternatives to unreasonably high 56-to-70 percent subscribership milestones; (c) requirements by municipal and cooperative electric utilities to provide reasonable and timely access to their poles and conduits as a condition of participating in RDOF auctions; (d) alternatives to unduly expensive letters of credit; and (e) a challenge process and the status of 25/3 Mbps areas.

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WTA – Advocates for Rural Broadband (“WTA”) hereby submits its reply comments with respect to the Commission’s *Notice of Proposed Rulemaking*, FCC 19-77, released August 2, 2019 in the captioned proceeding (“*NPRM*”). These reply comments are filed in accordance with the schedule published in 84 Fed. Reg. 43543 (August 21, 2019).

WTA’s review of the initial comments indicates a wide divergence of opinion on the nature and conduct of the contemplated Rural Digital Opportunity Fund (“RDOF”) reverse auctions (both Phase I and Phase II). Rather than addressing issues and differences point by point, WTA believes that it is more productive to focus upon what should be the predominant purpose of the RDOF auctions and how such purpose – which WTA believes is to enhance the broadband experience of existing and future rural broadband customers – should impact the design and conduct of the contemplated RDOF reverse auctions.

**I
The CAF Phase II Reverse Auction Procedures Must Be
Revised Substantially to Protect Existing Customers**

The 2018 Connect America Fund (“CAF”) Phase II reverse auction is likely to be successful in bringing first time broadband service at a relatively low levels of high-cost support to some rural areas that previously were wholly unserved. However, the Commission’s reverse

auction procedures – particularly their bid credit and weighting provisions – need to be substantially revised if they are to be applied to areas that have existing broadband customers and networks (especially where such networks have previously received substantial governmental support or grants).

The CAF Phase II auction reduced high-cost support amounts for the auctioned areas from an aggregate reserve price of approximately \$5.0 billion to an amount of \$1.488 billion or so that was below the allocated \$1.98 billion budget. It accomplished this by driving many eligible areas out of the auction as its descending clock price mechanism reduced offered support to wholly insufficient levels where no business case could be sustained, and by inducing participants to accept support for the remaining areas that was lower than the reserve prices that the Connect America Cost Model had estimated to constitute sufficient support. It will not be clear whether the winning bidders will actually be able to provide the broadband services they promised with the high-cost support funding they accepted until their compliance with the applicable build-out requirements is determined during the next six years or so. However, because the CAF Phase II reverse auction involved wholly unserved areas with no prior access to high-speed broadband service, it had no significant downside and will be successful in bringing broadband service for the first time to at least some of the 700,000 households and small businesses in the areas where it awarded high-cost support.

In stark contrast, the contemplated RDOF reverse auctions will impact significantly the service and consumer experience of many customers that are presently subscribing to 10/1 Mbps broadband service. The primary areas to be auctioned include “the census blocks for which price cap carriers currently receive CAF Phase II model-based support [and have 10/1 Mbps build-out obligations]” and “the census blocks excluded from the [2015] offers of model-based support and

the [2018] CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps.” *NPRM* at ¶46. These areas are not “wholly unserved” under any reasonable meaning of that term. Rather, they not only are served by the facilities of high-speed 10/1 Mbps broadband networks (many of which were deployed in whole or part with federal high-cost support), but also contain substantial numbers of households and small businesses that are existing customers of those 10/1 Mbps networks and services.

The Commission has long emphasized the critical importance of the customer experience with broadband service.¹ This consumer experience and satisfaction includes not only the ability to receive advertised broadband speeds and latency, but also the ability: (a) to keep the service and service provider that the customer likes as long as he or she wishes; (b) to continue to be able to use gateways, routers, modems and other customer premises equipment (“CPE”) that the customer has purchased and/or become familiar with using; (c) to not be forced to purchase more expensive broadband services and to buy or rent new CPE before the customer wishes to do so; (d) to continue using familiar interfaces and protocols without being forced to learn new ones; and (e) to avoid the time and disruptions necessary to set up new broadband service accounts and terminate existing ones, and to arrange for the installation of new broadband equipment and the disconnection of existing equipment, when the customer would not otherwise have made such changes. These are the kinds of disruptions and inconveniences that generate customer dissatisfaction, as well as complaints to service providers, federal and state agencies, and Congressional representatives.

WTA is well aware that that typical consumer demands for broadband services are likely to increase well beyond 10/1 Mbps, and even 25/3 Mbps, speeds during the contemplated ten-year RDOF term. However, this does not mean that large numbers of existing 10/1 Mbps customers in

¹ See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17706 (2011) (“*USF/ICC Transformation Order*”).

the proposed RDOF reverse auction areas are unhappy with their current broadband service and are demanding immediate speed and latency upgrades. Rather, subjecting the proposed RDOF areas to the CAF Phase II reverse auction methodology that was designed to reduce (and proved effective in reducing) high-cost support to minimal levels is likely to result in many of the current price cap 10/1 Mbps service providers losing the auction and being forced either to terminate service and exit the market area or to significantly increase their rates to offset the lost CAF support.² This is not a theoretical concern, as the CAF Phase II auction rules clearly favored the fixed wireless service providers that won about 65 percent of the auctioned support to serve about 53 percent of the 700,000 locations³ and the high-latency satellite broadband service providers that won about 27 percent of such locations.⁴ And where an existing 10/1 Mbps service provider loses a RDOF reverse auction, consumers suffer disruptions as they are required either to replace their service provider, broadband service and equipment or to pay higher monthly rates for their existing service. Even where the RDOF reverse auction results in higher broadband speeds, some consumers may not want or need to increase their broadband service speed at the time, while all will need to deal with the disruptions inherent in changing providers, services and equipment. And if the RDOF auction winner proves unable to furnish its promised network and services with the RDOF support it agreed to accept, consumers can be left with no broadband service or service inferior to the pre-RDOF 10/1 Mbps service they had. At that point, particularly several years down the road if the current 10/1 Mbps service provider has left the area, it will not matter much

² Comments of ITTA – The Voice of America’s Broadband Providers, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at p. 31.

³ Comments of The Wireless Internet Service Providers Association, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019 (“WISPA Comments”), at p. 3.

⁴ Comments of Verizon, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at p. 3.

to the injured consumers whether the Commission imposes substantial non-compliance penalties upon the defaulting RDOF reverse auction “winner.”

Hence, when the broadband experience of significant numbers of existing customers can be disrupted and impaired, reverse auction procedures must be designed and utilized with caution and care. At the very least, the CAF Phase II auction procedures must be revised substantially before being applied to the very different circumstances of the contemplated RDOF service areas.

II

WTA’s Proposed Bid Credit for Providers Compliant with Existing Build-Out Obligations Is Needed to Minimize Disruptions to Existing Customers

In its initial comments, WTA proposed a 25 percent or other substantial bid credit for carriers that had satisfied their build-out obligations under the existing high-cost support mechanism (here, their 10/1 Mbps build-out obligations under the CAF Phase II mechanism) for the state in which the RDOF auction area is included, or that had been ineligible for such mechanism because they had already deployed the applicable broadband speed in the subject areas. No other party proposed a similar bid credit or alternative weighting advantage for current service providers that had met their applicable state build-out obligations under the current support mechanism.

The predominant objective of WTA’s bid credit proposal was to minimize disruption and injury to existing broadband customers by making it more likely that their service providers could continue to receive CAF support in the future by winning the contemplated RDOF reverse auctions if they had satisfied their existing build-out obligations under the current CAF support mechanism. Rather than being forced to make new service and equipment arrangements, existing customers would have a better chance of being able to retain the provider, service and equipment that they are satisfied with until they want or need to upgrade their service. Moreover, when they are

desired, service upgrades with an existing service provider are likely to be much less time-consuming and disruptive than those with a wholly new entity and/or technology.

WTA's proposed bid credit also benefits the Commission. First, it makes it more likely that it will retain an existing CAF recipient with a proven record of compliance with its build-out obligations and other CAF rules rather than dealing with unproven or less experienced bidders that may or may not be able to provide their proposed services with the CAF support amounts they agree to accept. Second, it avoids the stranding of existing and still functional 10/1 Mbps networks and facilities that were build, in substantial part, with CAF funds in compliance with CAF regulations, and the consequent waste of such public funds.⁵ Third, it gives existing CAF recipients even further incentive to meet their existing and future build-out requirements.

WTA expects some opposition to the provision of bid credits to price cap carriers. However, not all price cap carriers have the size and assets of Verizon and AT&T. Some are mid-sized companies, and some have had financial problems. Some price cap carriers and their representatives have proposed extended or additional transition periods during which they would continue to receive CAF Phase II support. However, while extended transition periods would help the carriers themselves to recover more of the costs of their 10/1 Mbps networks, they merely delay the time when the service of existing 10/1 Mbps broadband customers will be disrupted and impaired. Put simply, an extended transition period does little to alleviate customer experience problems.

⁵ NCTA addresses a similar issue when it proposes that, in setting reserve prices in areas where price cap carriers received CAF Phase II support, the cost model's estimate should be significantly lowered to account only for the costs of upgrading an already deployed network capable of providing 10/1 Mbps to one capable of providing 25/3 Mbps. Comments of NCTA – The Internet & Television Association, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at p. 3 (“NCTA Comments”). Whatever adjustments may or may not be made to reserve prices, the critical concerns are that services of existing customers not be disrupted or impaired and that functional networks deployed with federal CAF support not be stranded.

If adopted, the proposed bid credit would allow existing CAF Phase II support recipients that had met their applicable state build-out obligations to bid more competitively in the RDOF reverse auctions. They would still have to propose to upgrade their networks to deploy higher speeds and/or lower latencies, but their existing 10/1 Mbps customers would be able to retain their existing services and arrangements until they elected to change them. Some price cap carriers may elect not to upgrade their networks or to seek future RDOF support, and others may not be willing to bid competitively even with the benefit of the bid credit. In those cases, the Commission would have done all that was reasonably possible to protect the service arrangements of existing 10/1 Mbps customers.

WTA believes that the proposed bid credit is the most effective and efficient way to protect the broadband services of existing customers in the RDOF auction areas. However, it is willing to discuss other approaches – for example, weighting factors or adjustments – that would have a similar ability to protect the customer experience and avoid substantial disruptions to the services of existing 10/1 Mbps broadband customers.

III Weighting Revisions Proposed to Protect and Enhance Customer Experience

Where substantial numbers of existing high-speed broadband customers are affected, the Commission's reverse auction weighting factors need to be revised to focus predominately upon the nature and quality of service to be provided to existing and future customers rather than reducing CAF support to as low of an amount as possible and/or getting as far as practicable below a designated aggregate budget.

WTA notes that a good deal of the discussion about weighting in the initial comments fell into two camps: (1) utilities and other fiber-based parties that proposed 90 point or greater spreads

between the highest and lowest performance tiers⁶; and (2) fixed wireless parties that proposed 45-point or lower spreads between such tiers.⁷ Whereas WTA believes that weighting should award proper credit to the much greater scalability and reliability of fiber-optic facilities, it has focused thus far more on additional weighting features intended to enhance the quality of the broadband services offered to customers. These include weighting advantages for: (a) a baseline tier that evolves to higher speeds during the RDOF term; (b) symmetrical upstream speeds; (c) optional unlimited monthly usage allowances; (d) local maintenance arrangements; (e) voice services with clear E-911 capabilities; and (f) options for lower latency service.

A. Weighting Advantage for an Additional and More Flexible Evolving Baseline Tier

In light of the increase in supported broadband speeds from 4/1 Mbps in 2011 to 25/3 Mbps today, it is not likely that 25/3 Mbps service will remain “reasonably comparable” to the broadband services available in urban areas by the end of the proposed 10-year RDOF term. Therefore, WTA proposed the addition of an evolving tier that would increase the baseline speed to 50/6 Mbps as of Year 6. This additional tier would permit customers who want or need higher broadband speeds to get them during the 10-year RDOF term rather than potentially being stuck at the 25/3 Mbps level for the entire term as their urban counterparts obtain access to higher speeds and their associated applications. It would also disadvantage bidding strategies that would seek to “win” RDOF auctions by proposing low-cost, bare bones networks that cannot readily be upgraded to deploy higher speeds.

The proposed evolving tier would provide a weighting advantage to bidders that propose networks that can be readily and economically scaled up to offer higher broadband speeds, and

⁶ Comments of the Utilities Technology Council, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at p. 10 n. 19.

⁷ WISPA Comments, at p. 12.

that commit to the provision of a designated higher speed by Year 6. Whereas the ultimate evolved speed can be something other than 50/6 (which is a reasonable guess as to how broadband speeds may evolve during the next 5 years), WTA believes that the required Year 6 speed should be specified prior to the RDOF auctions rather than being left indefinite until a later date. This will give bidders more concrete information with which to plan their networks, calculate their support needs and determine their auction bids.

B. Weighting Advantage for Symmetrical Speeds or Tiers

WTA members are seeing significant increases in the needs and demands of more and more of their rural customers for higher upload speeds for remote medical procedures and testing, sales and auctions of livestock, monitoring of homes and farm buildings for safety and other purposes, and a host of new and emerging applications arising from the Internet of Things and Precision Agriculture technology.

In its initial comments, WTA proposed the addition of a 25/25 Mbps Symmetrical Tier and the assignment to it of a weighting advantage. It notes that NTCA submitted a proposal for a 15-point “Symmetrical Bonus” for any auction speed tier for which a bidder proposes to offer and provide symmetrical speeds.⁸ The important considerations here are that symmetrical services and their higher upstream speeds constitute a significant new type of broadband offering being demanded by a growing segment of rural customers who are using them for important medical, business and safety purposes, and that symmetrical service demand and usage is likely to continue to increase during the ten-year RDOF term. Hence whether the Commission adds one or more symmetrical tiers or offers a symmetrical bonus for any tier on which a bidder commits to provide

⁸ Comments of NTCA – The Rural Broadband Association, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at pp.13-14 (“NTCA Comments”).

symmetrical speeds, the Commission is urged to add an appropriate symmetrical weighting factor in order to recognize the value of symmetrical upstream and downstream speeds and to give RDOF bidders an option and incentive to deploy them for the benefit of the increasing number of rural customers that are requesting and using them.

C. Weighting Advantage for Unlimited Monthly Usage Allowances

WTA members are well aware that their broadband customers do not like monthly usage allowances or limits, and particularly dislike and complain about unpredictable charges for excess usage. NTCA's proposal for a 5 Terabit or so monthly usage allowance for certain higher-speed broadband service tiers comprises a reasonable modification of the initial monthly usage allowance categories.⁹ However, WTA believe that an important element of the customer experience like the monthly usage allowance should not be obscured by being included as an element of various speed tiers, but rather should be considered as a separate and independent aspect of RDOF service like latency. And, as such, these service options should include a significant weighting advantage for an unlimited monthly usage allowance option that will please many customers and not become outmoded or overly constrictive as broadband usage patterns change. This unlimited monthly usage option would be part of a separate RDOF service category that could also include other optional monthly usage allowance levels such as 150 GB, 2 TB and 5 TB. WTA realizes that not every RDOF bidder is willing or able to propose or provide unlimited monthly usage allowances (for example, some may not be able to obtain or pay for the requisite middle mile capacity). However, those RDOF bidders willing and able to improve the broadband experience of their customers by providing an unlimited monthly usage allowance should receive a substantial weighting advantage for doing so.

⁹ NTCA Comments, p. 10.

D. Weighting Advantage for Prompt Local Maintenance

A good customer broadband experience entails not only being able to purchase the broadband service, speed and latency that one desires but also receiving reliable and continuous service and being able to obtain prompt maintenance and repair when service problems and interruptions occur.

WTA believes that it is the only one of the initial commenters that proposed a weighting advantage for maintenance service. It fully understands that there are many aspects of a quality maintenance service, including the training and capabilities of maintenance technicians, the time it takes to complete repairs, and the effectiveness of repairs and avoidance of multiple trouble calls and truck rolls to fix the same problem. However, rapid maintenance response time is a substantial element of quality maintenance service, is significantly interrelated with the other aspects of maintenance service, and is relatively easy to design, monitor, report and enforce. Therefore, WTA proposed the addition of a weighting advantage for a dedicated localized maintenance facility and staff that are able to respond physically to trouble calls within 24-to-30 hours. This can be accomplished with the bidder's own maintenance employees and equipment, or via a contractual arrangement with a local independent contractor that commits to provide the priority maintenance response and service required. The goal is to give an RDOF weighting advantage to bidders that have a dedicated local maintenance facility and staff or have taken concrete steps to establish one -- over bidders that do not have local maintenance capabilities and have made no arrangements to establish them.

E. Weighting Advantage for Voice Service with E-911 Capabilities

WTA recognizes that a significant portion of traditional voice traffic was been replaced or superseded by email, text messages, instant messaging, and social media posts. However, in rural

areas, voice calls are still the primary and most efficient way to summon police, fire and ambulance responders. Particularly when public safety facilities and personnel may be located tens of miles away (and when many fire fighters and emergency medical technicians work on a volunteer basis), it is critical that rural emergency calls be directed and delivered to the appropriate local Public Safety Answering Point (“PSAP”) or emergency response office without error or delay as time is of the essence when substantial response distances are already involved.

As a consequence, WTA proposed in its initial comments the addition of a weighting advantage for voice service with local E-911 capabilities. This would require a RDOF bidder seeking the weighting advantage to identify the PSAP or other E-911 facility serving each of the areas for which it is seeking the weighting advantage, to specify the equipment and capabilities that it has installed (or will need to install) to instantly and accurately route emergency calls to the correct local PSAP or other E-911 facility, and to have at least formally initiated discussions and correspondence with such PSAPs/E-911 facilities. These emergency call routing arrangements do not just improve the customer broadband experience; they are critical for the safety and preservation of customer life, health and property.

WTA finds this proposed weighting advantage for voice service with E-911 capabilities particularly important when some substantial groups of prospective bidders are urging the Commission not to require RDOF recipients to offer standalone voice service, but rather to relax or eliminate voice service requirements and to encourage a wide open market that includes regulated voice telecommunications services, interconnected Voice over Internet Protocol (“VoIP”) services and over-the-top voice applications.¹⁰ This approach not only is antithetical to the long-standing mission of universal service to support both voice and broadband services in

¹⁰ WISPA Comments, pp. 10-11.

high-cost areas, but also would threaten public safety in cases where a voice service provider unfamiliar with a local rural area misdirects or delays delivery of an emergency call.

WTA's proposed weighting advantage does not go as far as proposals to require RDOF bidders to offer voice telephony throughout their winning area as soon as they assume their Eligible Telecommunications Carrier ("ETC") obligations in the area.¹¹ Rather, it focuses upon the most critical aspect of rural voice service – the ability to rapidly and accurately contact first responders in emergencies – and provides an additional weighting advantage to RDOF bidders that commit to providing the requisite E-911 arrangements and capabilities and that have taken concrete steps to do so. Put simply, the local service provider that knows the area and can instantaneously direct emergency calls to the proper first responder will provide a much better and safer customer experience than the distant carrier unfamiliar with a service area whose non-local staff or facilities need to waste critical time determining where to send an emergency call or to depend on automated systems or software that can misunderstand the frantic call of a person calling for emergency help.

F. Revisions to Latency Levels and Weights

Low latency constitutes a very important element of the customer experience, particularly with respect to the voice service at the heart of universal service support and to videoconferencing. WTA agrees with the National Rural Electric Cooperative Association ("NRECA") that a new lower or ultra-low latency tier should be added to encourage enhanced service that is significantly better than the current 100 millisecond low latency standard and that such improved latency tier

¹¹ Comments of Windstream Services, LLC, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at p. 20.

should be given a more advantageous weight.¹² In WTA’s case, such lower or ultra-low latency should be 25 milliseconds.

WTA also agrees with NTCA and NRECA that the high latency tier should be reduced from 750 milliseconds to 600 or 550 milliseconds.¹³ The Commission should require satellite bidders and other providers of high latency services to improve their latency performance before receiving RDOF support, and not stand pat with present technology during the ten-year RDOF term. Again, this is required because latency is an important element of the customer experience.

IV Other RDOF Issues

Whereas WTA has focused thus far in this proceeding on the bid credit and weighting changes needed to preserve and enhance the broadband service options available to existing and future customers in the RDOF auction areas, there are several other issues raised in the initial comments that WTA believes are important to address. These include: (a) the size of the service areas to be auctioned; (b) subscribership milestones and alternatives; (c) access to the utility poles and conduits of municipal and cooperative electric utility bidders; (d) letters of credit and alternatives; and (e) treatment of existing 25/3 Mbps service areas.

A. Service Areas to Be Included in RDOF Auction

WTA understands the reasonableness of, and differences between, arguments for use of census blocks as bidding units in order to encourage greater participation by smaller bidders seeking to edge out their existing networks versus use of larger census block groups to make auctions more manageable by reducing the number of bidding units in play.¹⁴ This is a relatively

¹² Comments of the National Rural Electric Cooperative Association, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at p. 7 (“NRECA Comments”).

¹³ NTCA Comments at p. 11; NRECA Comments at p. 7.

¹⁴ Comments of ACA Connects – America’s Communications Association, WC Docket Nos. 19-126 and 10-90, dated September 20, 2019, at pp. 9-11 (“ACA Comments”); NTCA Comments, pp. 16-18.

close question, but WTA comes down on the side of census blocks because they are more likely to encourage small existing broadband service providers to bid for areas on the edges of their existing service territories. The sole business of WTA members and other rural local exchange carriers (“Rural LECs”) is to provide voice and broadband services within their rural service territories, and this focus has enabled them to compile a long and proven record of deploying rural voice and broadband services much earlier and of much better quality than their regional and national counterparts. Many WTA members have been long and repeatedly begged by residents of unserved or underserved areas on the distant rims of neighboring price cap areas to extend their broadband networks into some adjacent rural areas. Using census blocks that allow Rural LECs and other small broadband service providers to edge their existing networks out into adjacent areas that they can serve readily and rapidly will benefit unserved rural customers who have long been begging for just that result as well as increasing greater participation in the RDOF auctions.

WTA agrees with NCTA that the RDOF auctions should exclude areas to be served in the New York Broadband Program and the Department of Agriculture’s Rural eConnectivity Pilot Program.¹⁵

B. Alternatives to Unreasonably High Subscriber Milestones

WTA is not opposed to measures designed to discourage potential gaming tactics by reverse auction winners that would minimize the numbers of subscribers on a low-cost, barebones network that was used to win an auction in order to satisfy subsequent build-out and performance requirements. However, WTA joins with numerous other commenters that serve rural areas to note that subscriber milestones that range from 56% to 70% are unreasonably high and cannot be satisfied by many *bona fide* rural broadband service providers no matter how well they construct

¹⁵ NCTA Comments, p. 4.

and operate their networks. Whereas WTA members would love to serve 100% of their potential customers and are willing to work towards that goal, their knowledge of their rural service areas and potential customers indicates that only a much lower maximum milestone – in the area of 35% -- is reasonable and attainable at this time.

WTA notes that its members and most other *bona fide* broadband service providers want to serve as many customers as they can and to maximize their associated customer revenues. One alternative to discourage gaming would be to require RDOF recipients not meeting certain subscribership milestones – for example, 25% after three years – to provide a list of their unfulfilled service requests and explain why they have not been satisfied. Another approach would be to require RDOF recipients not meeting the same or a similar subscribership milestone to describe their advertising and other marketing practices in the area, and explain why they have not been successful in meeting the applicable milestone.

C. Access to Utility Poles

WTA agrees with CenturyLink that, as a condition of participation in RDOF auctions, municipal and cooperative electric utilities should be required to relinquish their exemption from Section 224 of the Communications Act and to provide timely and fairly priced access to their poles and conduits pursuant to pertinent federal or state pole attachment regulations and procedures. If municipal and cooperative electric utilities are to be afforded a technologically neutral opportunity to participate in RDOF auctions, they should have the same obligations as the other carriers, service providers and utilities that participate, including the obligation to provide reasonable and timely access to their poles and conduits. Once a municipal or cooperative electric utility files a short form to participate in an RDOF auction and the Commission issues a public notice accepting that application, its relinquishment of its Section 224 exemption and acceptance

of pole attachment obligations should apply henceforth whether it subsequently wins, loses or withdraws from the RDOF auction.

D. Letters of Credit and Application Procedures

WTA agrees with many other commenting parties that the Commission's Letter of Credit ("LOC") requirements are excessively onerous and expensive, and will require RDOF winners to expend unreasonably high amounts of dollars that they could and should be using for broadband deployment to pay the increasing annual costs of such LOCs. And whereas the LOCs will enable the Commission to recover funds that it previously distributed to defaulting or non-performing RDOF auction winners, they will do nothing to compensate the existing customers who lost their prior 10/1 Mbps services and service providers as well as the customers who never received the promised RDOF services.

The need for LOCs to protect against waste, fraud and abuse of RDOF funds can be reduced substantially by the adoption of strict Short Form application procedures to weed out potential bidders that are unable to establish their financial and technical qualifications to provide their promised services to the areas for which they are bidding. For example, prospective bidders that have not been providing reasonably comparable broadband services for 3 years or more to areas at least 65% of the size (by population or locations) of the areas on which they are bidding should be required to provide detailed financial and technical information demonstrating their ability to provide their proposed services to their proposed areas. If they cannot meet their burden of proving that they can satisfy their broadband service proposals without substantial risk of service losses and disruptions to customers and waste of RDOF funds, their Short Form applications should be dismissed and they should be denied the privilege of participating in the RDOF auction.

WTA agrees with WISPA that performance bonds would appear to be a more efficient alternative to LOCs because they are generally able to provide comparable protection to the Commission against loss of RDOF funds at a much lower cost to RDOF recipients.¹⁶

E. Challenge Process and Status of 25/3 Mbps Areas

WTA agrees with NTCA that there should be a robust challenge validation process to accurately identify the areas eligible for RDOF funding.¹⁷ It is particularly important to identify the nature and extent of actually deployed and operating 25/3 Mbps services in areas that are potentially subject to inclusion in or exclusion from the RDOF auctions.

However, WTA believes that there are a number of other considerations with respect to potential RDOF areas that have substantial existing 25/3 Mbps service. If they are excluded from the RDOF auctions and therefore RDOF support, what are the options for continuing CAF support if needed by the 25/3 Mbps service providers to repay their outstanding construction loans or to maintain their services and operations? Also, given that broadband speeds are likely to continue to increase, is it reasonable and equitable to exclude 25/3 Mbps service providers from RDOF auctions where they could bid for the support necessary to furnish their customers with 100/20 Mbps, Gigabit and other higher speed services that may become “standard services” or “services reasonably comparable to urban services” before the end of the 10-year RDOF term?

V. Conclusion

Because the contemplated RDOF reverse auction areas include many existing 10/1 Mbps broadband customers, the budget-focused CAF Phase II reverse auction procedures and mechanisms must be revised substantially to enhance the experience of both existing and future

¹⁶ WISPA Comments, pp. 35-36.

¹⁷ NTCA Comments, pp. 36-39.

customers and minimize disruptions to existing service arrangements and facilities. The RDOF reverse auction procedures must give priority to customer service and protection considerations rather than driving high-cost support disbursements down to the lowest possible level.

WTA reiterates its proposal for grant of a substantial 25 percent RDOF bidding credit to existing CAF Phase II recipients that have met their 10/1 Mbps build-out obligations for the subject state. The predominant purpose of this bid credit is to increase the probability that existing broadband customers in RDOF areas can keep services and service providers that they like, and will not be required to purchase more expensive services or replace functional consumer premises equipment or learn new service interfaces due to auction-required changes in service providers and/or technologies. This bidding credit also encourages existing CAF recipients to meet their current build-out requirements, and avoids potential problems with stranded investment, unpaid construction loans and unrecovered facility costs with respect to broadband infrastructure that was required to be deployed pursuant to the rules governing the previous CAF mechanism.

WTA reiterates its proposals for changes to the CAF Phase II Auction weighting factors in order to maintain and improve the quality of service expected by existing customers while discouraging low-ball bidding strategies that would reduce service quality and customer satisfaction. The proposed revised weighting factors include: (a) a weighting preference for a new Evolving Baseline Tier that would require the baseline broadband speed to be increased significantly during the ten-year RDOF term (*e.g.*, 25/3 Mbps for first 5 years, then 50/6 Mbps for years 6 to 10); (b) weighting preferences for symmetric speeds or tiers that will increasingly be needed as applications requiring higher upstream speeds proliferate; (c) a separate weighting preference for monthly usage allowances, including a substantial preference for the unlimited monthly usage desired by many customers; (d) a weighting preference for localized maintenance

capable of responding rapidly to trouble calls; (e) a weighting preference for voice service that is integrated into and coordinated with local E-911 service; and (f) a weighting preference for a new very low latency level.

WTA also addresses other RDOF issues, including (a) the use of census blocks as bidding units in order to encourage greater participation by smaller bidders; (b) alternatives to unreasonably high 56-to-70 percent subscribership milestones; (c) requirements by municipal and cooperative electric utilities to provide reasonable and timely access to their poles and conduits as a condition of participation in RDOF auctions; (d) alternatives to unduly expensive letters of credit; and (e) challenge processes and the status of 25/3 Mbps areas.

Respectfully submitted,
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