Advocates for Rural Broadband
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Filed Via ECFS
Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Rural Digital Opportunity Fund, WC Docket No. 19-126

Dear Ms. Dortch:

On Wednesday, December 18, 2019, Derrick Owens and Gerry Duffy representing WTA – Advocates for Rural Broadband ("WTA") met with Alexander Minard, Trent Harkrader, Katie King, Ian Forbes, Heidi Lankau, Lauren Garry and Jesse Jackman of the Wireline Competition Bureau; Jonathan McCormack, Michael Janson, Nathan Eagan and Audra Hale-Maddox of the Rural Broadband Auctions Task Force; and Jeffrey Prince of the Office of Economics and Analytics, to discuss the Commission's Notice of Proposed Rulemaking, FCC 19-77, released August 2, 2019, regarding the Rural Digital Opportunity Fund ("RDOF").

WTA indicated that some of its members are interested in participating in the RDOF auctions, but that substantial revisions need to be made to the CAF Phase II Auction procedures before they are applied to areas with existing 10/1 Mbps broadband networks, customers and service arrangements. Whereas the 2018 CAF Phase II reverse auction mechanism may or may not ultimately prove successful in bringing high-speed broadband services to areas that previously had no access to them, it clearly drove support down to approximately one-third of the aggregated reserve prices and appeared to do so by effectively favoring relatively bare bones satellite and fixed wireless proposals. WTA is concerned that the application of virtually the same mechanism to RDOF areas served by 10/1 Mbps wireline broadband networks will result in the displacement and withdrawal of many existing wireline service providers. The critical problem here is the resulting disruption and deterioration of the customer experience, as existing 10/1 Mbps subscribers are forced to change their service providers and some or all of their existing service arrangements, interfaces, equipment, applications and email addresses.

In order to minimize customer difficulties and dissatisfaction, WTA proposed a bidding credit for existing 10/1 Mbps broadband networks receiving high-cost support that had met their build-out obligations under the pre-auction support mechanism (here: CAF Phase II model support). WTA recognizes that this proposal is subject to allegations that it favors incumbents (none of whom, by the way, are WTA members), but emphasizes that it is intended to minimize customer disturbances and complaints while at the same time increasing the likelihood that future support for affected areas will be provided to entities that have already proven their interest and ability to use federal support to meet their public service obligations for such areas.

WTA has also proposed several additions and changes to RDOF weighting factors in order to increase the likelihood that the RDOF auctions will select proposals that will provide quality services aimed at meeting long-term customer needs in an economical manner, and not be skewed to low-cost, bare-bones proposals devised primarily to win reverse auctions now without worrying about future service needs and upgrade costs. For example, WTA proposed the addition of an "evolutionary tier" (for example, 25/3 Mbps for Years 1 to 5, and 50/6 Mbps for Years 6 to 10) that would provide weighting advantages to bidders that proposed networks that can and would be upgraded to higher speeds during the 10-year RDOF term rather than sticking to a lower-cost 25/3 Mbps baseline design that is likely to be outmoded long before the end of the RDOF term. WTA also proposed a weighting advantage for proposals for symmetric network designs - whether for a specific symmetric tier (for example, 25/25 Mbps) or for a symmetric "bonus" like that proposed by NTCA for symmetric service on any tier. As distance telemedicine, precision agriculture, distance learning, and the Internet of Things increase the use and importance of upload speeds, the proposed additional RDOF weighting option would offer bidding advantages to encourage symmetric services to be offered. Third, WTA reported that many customers of its members like unlimited data usage arrangements. It proposed that monthly usage allowances be treated as separate weighting factors like latency, and that a weighting advantage be adopted for bidders that commit to providing their customers with unlimited monthly data usage rather than the 150 Gigabit and 2 Terabit alternatives.

WTA reiterated its support for census blocks as the areas to be auctioned. It recognizes that neither census blocks nor census block groups have any relationship to the development of local exchange service boundaries, wireless predicted service contours, or cable television franchising areas. It further recognizes that census block groups would significantly reduce the number of auction areas to be monitored. However, census blocks would encourage more bidding by small service providers and can flexibly be combined and arranged into practicable service areas. WTA notes that many of its members have reported requests for broadband service by households situated in areas adjacent to their local exchange service areas. These customers could be readily served by relatively cost-effective network extensions if such members could bid and receive RDOF support for adjacent census blocks, but may well continue to remain unserved if they can only be served as part of much larger census block groups.

WTA stated that its members work hard to enable and encourage all of their potential customers to adopt broadband services that meet their needs, but that 56-to-70 percent subscribership milestones are unfortunately unattainable in many rural areas at this time. No recipient of RDOF or any other federal high-cost support should be permitted to deny service to any customer that is willing and able to pay for it and that complies with acceptable use standards that are reasonable and fairly enforced. However, specific subscribership milestones are not practicable at this time.

Finally, WTA expressed concerns about the adverse impact of irrevocable letters of credit ("LOCs") upon small bidders. LOCs can be very expensive (if available at all to some entities) and can substantially reduce the net support received by successful bidders. WTA recognizes the need for the Commission to be able to recover RDOF funds from dishonest or unsuccessful entities that did not meet their service proposals and obligations. However, LOCs can be so expensive as to adversely impact the ability of *bona fide* small entities to meet their build-out and other service obligations. Moreover, given that the cost and availability of an irrevocable LOC may not be determinable until after a bidder wins an RDOF auction, some small bidders may not be able to be obtain them in time to meet Long Form filing deadlines, if at all. The Commission may want to address in its RDOF order the impact upon a *bona fide* bidder and upon the next lowest bidder for an area if the initial low bidder cannot obtain the requisite irrevocable LOC prior to the applicable Long Form deadline. Finally, if the Commission develops rules for the taking of funds from a bidder's LOC due to non-performance, it should clarify the types of non-performance that warrant the taking of funds from a LOC – in particular, the extent to which such non-performance applies to build-out locations and/or performance testing.

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
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