



May 9, 2023

Filed via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

**RE: Connect America Fund, WC Docket No. 10-90
Expanding Broadband Service Through the ACAM Program, RM-11868**

Dear Ms. Dortch:

On Monday, May 8, 2023, Derrick Owens and Gerry Duffy of WTA – Advocates for Rural Broadband (“WTA”) met via telephone conference call with Elizabeth Cuttner, Legal Advisor to Chairwoman Jessica Rosenworcel, to reiterate WTA’s previous requests: (a) for timely waiver of the Budget Control Mechanism in Rule Sections 54.901(f) [for Connect America Fund – Broadband Loop Support (“CAF-BLS”)] and 54.1310(d) [for High-Cost Loop Support (“HCLS”)] for at least the July 2023-to-June 2024 support year; and (b) for timely adoption and implementation of the proposed Enhanced Alternative Connect America Cost Model (Enhanced ACAM”) mechanism. WTA also expressed opposition to the inclusion of fixed wireless access services deployed in unlicensed spectrum bands as “unsubsidized competitors” for the purpose of removing areas and locations from eligibility for Enhanced ACAM support.

Without a BCM waiver for the rapidly approaching 2023-2024 support year, WTA members and other rural local exchange carriers (“RLECs”) will lose approximately 18 percent of their otherwise applicable high-cost support (which ranges from approximately \$400,000 to approximately \$2.7 million for various WTA members). This will constitute a crippling loss of the funds needed to continue deploying, upgrading and operating their broadband networks and services. It not only will render the affected high-cost support insufficient and unpredictable, but also will be inequitable because the lost support is predominately reimbursement for dollars that were previously spent in reliance thereof to extend and upgrade RLEC broadband networks during the COVID-19 pandemic and quarantines to meet the work-from-home, distance learning, remote medical care and other critical needs of their rural customers.

WTA understands that longer term review and revision of the CAF-BLS and HCLS programs and the recalibration of the BCM are necessary to deal with growing broadband speed demands and increasing broadband capital expenditures and operating expenses. However, with the 2023–2024 access tariff filings and support year looming, the need for immediate grant of at least another one-year BCM waiver is critical. WTA notes that, both now and in the future, the BCM disrupts the process of applying for federal and state broadband grants because applicants are unable to certify the accuracy of their financial projections due to the unpredictability of BCM impacts in future years. This has become a growing problem as new federal and state broadband grant programs are implemented and potential BCM adjustment percentages continue to increase significantly.

WTA continues to strongly support the ACAM Broadband Coalition’s proposal for an improved and extended Enhanced ACAM mechanism. WTA understands that there are ongoing discussions regarding some aspects of the Enhanced ACAM proposal, and it urges the Commission to resolve the outstanding questions and issue an order as expeditiously as possible so that RLECs can move forward rapidly to make their voluntary Enhanced ACAM participation decisions, obtain the requisite equipment and construction services, and deploy the urgently needed 100/20 Mbps and higher broadband services. Many rural areas have limited construction seasons so that a delay of a few critical warm weather construction months can mean another winter or school year without the broadband services needed to work from home, obtain remote medical care, and attend certain classes and/or complete homework. Meanwhile, supply chain bottlenecks and rising equipment prices and labor costs mean that a delay of several months can significantly prolong the completion of a broadband deployment project and substantially increase its costs above those budgeted. Finally, prompt Enhanced ACAM adoption and implementation will prevent duplication and improve the efficiency of federal broadband programs by enabling the National Telecommunications and Information Administration (“NTIA”) to apply effectively its rule that states may not treat as “unserved” or “underserved” for Broadband Equity, Access and Deployment (“BEAD”) grant eligibility purposes any location that is already subject to an enforceable federal, state, or local commitment to deploy “qualifying broadband” (*i.e.*, 100/20 Mbps service) as of the date that NTIA’s BEAD challenge process is concluded. *NTIA Notice of Funding Opportunity, Broadband Equity, Access and Deployment Program* (NTIA-BEAD-2022), p. 63.

Finally, WTA believes that unlicensed fixed wireless broadband services should not be included as “unsubsidized competitors” for the purpose of removing areas and locations from eligibility for Enhanced ACAM support. The unconstrained nature of unlicensed wireless service means that service providers can come and go virtually at will, and hence renders uncertain and precarious the ability of residents of such areas to rely upon access to quality and affordable broadband service. First, unlicensed service providers do not have Section 214 or similar service continuation or service discontinuation approval obligations, and thus are able to change the locations or areas that they serve, or discontinue serving them entirely, without application to the Commission or its approval. Hence, locations or areas removed from Enhanced ACAM eligibility due to the presence of an unlicensed fixed wireless “competitor” may find themselves without broadband service if the unlicensed entity subsequently finds its profit to be insufficient and reconfigures its service area or discontinues service entirely. Second, unlicensed wireless service providers cannot prevent other entities from using the same spectrum in the same area, and will need to accept interference and congestion that degrades their broadband service if they cannot eliminate or minimize it via coordination procedures and agreements. Finally, it is possible that a future Commission may decide to change the status and usage of unlicensed spectrum, for example by auctioning and licensing it to entities willing to pay substantial sums to the United States Government for the rights to exclusive use the subject spectrum for different purposes.

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,
WTA – ADVOCATES FOR RURAL BROADBAND
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cc: Elizabeth Cuttner