

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support) WC Docket No. 10-90
)
ETC Annual Reports and Certifications) WC Docket No. 14-58
)
Telecommunications Carriers Eligible to Receive Universal Service Support) WC Docket No. 09-197
)
Connect America Fund – Alaska Plan) WC Docket No. 16-271
)
Expanding Broadband Service Through the ACAM Program) RM-11868
)

**COMMENTS
OF
WTA – ADVOCATES FOR RURAL BROADBAND
REGARDING
NOTICE OF PROPOSED RULEMAKING**

WTA – Advocates for Rural Broadband (“WTA”) hereby submits its comments with respect to the Notice of Proposed Rulemaking (“NPRM”) portion of the Commission’s Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (*Connect America Fund et al.*), WC Docket Nos. 10-90, 14-58, 09-197 and 16-271 and RM-11868, FCC 23-60, released July 24, 2023 (“*Order/NPRM/NOI*”).

WTA is a national trade association that represents more than 370 rural local exchange carriers (“RLECs”) that provide voice and broadband services to some of the most rural, remote, rugged, sparsely populated and expensive-to-serve areas of the United States. As of the September 18, 2023 filing date of these comments, approximately 55 percent of WTA’s non-Alaska Plan RLEC members receive cost-based support from the Connect America Fund – Broadband Loop Support (“CAF-BLS”) and/or High Cost Loop Support (“HCLS”) mechanisms (also known as

“legacy support mechanisms”), while the remaining 45 percent or so of WTA’s non-Alaska Plan RLEC members receive model-based support from one of the Alternative Connect America Cost Model (“ACAM”) mechanisms.

The *NPRM* requests comments in the following three areas: (1) potential changes to legacy support mechanisms, the appropriate funding of such mechanisms, and their potential impact upon the budget control mechanism; (2) appropriate deployment obligations in 2024 and thereafter for carriers receiving CAF-BLS; and (3) methodologies for preventing duplication of support between legacy universal service support mechanisms and funding provided by other federal and state agencies for deployment of broadband.

The CAF-BLS and HCLS mechanisms constitute an essential part of the federal universal service support programs that are subject to the statutory requirement to be explicit and sufficient to achieve the purposes of providing, maintaining and upgrading the facilities and services for which they are intended, as well as the statutory goal of providing specific, predictable and sufficient mechanisms to preserve and advance universal service. 47 U.S.C. §§254(b)(5) and (e).

WTA believes that no changes should be made to CAF-BLS, HCLS or other legacy support mechanisms until the Commission and the industry have had sufficient time to determine the nature and scope of the changes in broadband deployment and support needs that are likely to result from the reduction in the size and potential change in the composition of the CAF-BLS and HCLS mechanisms due to the imminent voluntary migration of a presently unknown portion of current CAF-BLS/HCLS recipients to the Enhanced Alternative Connect America Cost Model (“EACAM”) program. Similarly, whereas it is very likely that 100/20 Mbps or greater speeds will soon become the Commission’s defined standard for universal service, the Commission should wait to see the types of areas that will continue to require CAF-BLS support to deploy high-speed

broadband before setting CAF-BLS deployment obligations and re-examining the impact of the costs of such deployment obligations on its budget control mechanism. Finally, given that CAF-BLS and HCLS support are both based upon the actual capital and operating expenditures made by rate-of-return carriers, federal and state broadband grants [including National Telecommunications and Information Administration (“NTIA”) Broadband Equity, Access and Deployment (“BEAD”) grants and Rural Utilities Service (“RUS”) ReConnect grants] are not included in the calculation of either CAF-BLS or HCLS support and therefore will not result in duplication of broadband deployment funding. To the extent that capital grants may potentially impact the allocation of certain operating expenses, the Commission should wait to determine the nature and extent of any actual impacts before addressing the matter.

It Is Premature to Modify Legacy Support Mechanisms Before the Impact of EACAM Migration and Other Industry Changes Are More Clearly Ascertainable

As these comments are filed, the number of current CAF-BLS/HCLS recipients that will voluntarily opt into transitional EACAM support by the Friday, September 29, 2023, deadline is not yet known. In fact, the respective numbers and identities of the rural local exchange carriers (“RLECs”) (a) that will continue to receive CAF-BLS and/or HCLS support and (b) that will transition to EACAM support will not be known in time to be addressed in the *NPRM* reply comments that are currently scheduled to be filed on the next business day (Monday, October 2, 2023) after the Friday, September 29, 2023 EACAM election deadline. Hence, while it is likely that the numbers of RLECs receiving CAF-BLS and/or HCLS after January 1, 2024 will be smaller (unless the minimum EACAM participation threshold is not reached or waived), it is not yet known how many RLEC CAF-BLS and/or HCLS recipients will remain.

Even after the number of remaining CAF-BLS/HCLS recipients becomes known in early October 2023, their particular characteristics and support needs [including, but not limited to, size,

locations, broadband deployment status, customer broadband-only loop (“CBOL”) demand, topography, population density and cost structure) will still need to be determined in order to make the appropriate and sufficient adjustments to the CAF-BLS and HCLS support mechanisms that will be needed to enable them to increase broadband deployment.

For example, some CAF-BLS/HCLS recipients will not opt into EACAM because the remote locations and harsh conditions in the outlying portions of their service areas will not allow them to meet the 100 percent EACAM build-out requirement within the allotted time period. Rather, many locations in sparsely populated and rugged RLEC edge areas cost far more to serve than the offered EACAM support and are extremely difficult, probably impossible, to reach during the required build-out period due to distance, topography and short construction seasons. Other CAF-BLS/HCLS recipients have broadband funding needs significantly greater than their transitional 2022 support claims because supply chain bottlenecks, permitting and financing delays, labor shortages and similar disruptive conditions prevented them from making needed and desired broadband investments during the periods covered by their 2022 support claims. Still other CAF-BLS/HCLS recipients have recently received RUS ReConnect grants that impact their EACAM eligibility, or are in the process of applying for ReConnect 4 grants or grant-loans -- or planning to apply for ReConnect 5 grants or grant-loans later this year -- that could be prohibited by EACAM participation.

Hence, whereas the Commission and industry will know by early October how many RLECs will continue to receive CAF-BLS and/or HCLS support, the characteristics and broadband needs of these service providers and their rural service areas will be required to be determined before changes can be designed and implemented that will effectively promote broadband deployment and upgrades. Sufficient CAF-BLS and HCLS funding will clearly be necessary to

serve very high-cost edge areas that will not attract BEAD applicants or other potential alternative service providers because they are too remote, too sparsely populated, and too expensive to make it economical to deploy and sustain reliable high-speed broadband services. Other unserved and underserved areas can be much more efficiently and economically reached by extending the broadband trunks and drops of existing CAF-BLS/HCLS-supported broadband and voice networks rather than constructing new stand-alone networks. In yet other areas, CAF-BLS and HCLS can complement RUS ReConnect programs in order to bring high-speed broadband to otherwise unserved and underserved rural areas and to provide the additional funding streams relied upon by RUS to select and ensure the sustainability of its broadband deployment projects. Finally, CAF-BLS and HCLS are needed to help RLECs repay the RUS and other loans that they have taken out to construct and upgrade their existing broadband networks, as well as to enable RLECs to sustain the high costs of maintaining and operating their rural broadband networks.

The benefit of CAF-BLS and HCLS is that these established and tested cost-based mechanisms can address the foregoing variety of broadband deployment and sustainability needs as well the inevitable unforeseen issues and consequences without requiring the development and monitoring of a multiplicity of additional new mechanisms. The Commission and its Universal Service Administrative Company (“USAC”) can readily collect, analyze and audit cost data. And the Commission has substantial experience in tailoring, and can continue to tailor, a number of dials including cost benchmarks, thresholds and ceilings, plus budgets and inflation adjustments that will allow cost-based support to be focused efficiently and effectively upon areas where it is most needed and where high-speed broadband might otherwise be unavailable or unsustainable.

WTA therefore urges the Commission to take at least a year to monitor and study the broadband needs and progress of the remaining CAF-BLS/HCLS recipients that do not elect to

transition to model-based EACAM support. This will enable the Commission to direct CAF-BLS/HCLS support to RLEC areas that will otherwise remain unserved or underserved by high-speed broadband, to maximize efficient cooperation with ReConnect, BEAD and other federal and state grant programs to deploy and sustain high-speed broadband in RLEC areas, and to continue to sustain the maintenance and operation of broadband and voice services in high-cost RLEC areas.

It Is Also Premature to Establish CAF-BLS Deployment Obligations

WTA is well aware that the EACAM mechanism and the BEAD grant program are requiring the deployment of 100/20 Mbps broadband speeds. It is likely that the Commission will establish 100/20 Mbps in the foreseeable future as the evolving level of supported “universal service” pursuant to Section 254(c)(1) of the Communications Act. This will be a significant step, for the predominant and most reliable technology able to provide 100/20 Mbps speeds in most RLEC service areas with little or no degradation from congestion, weather and foliage is fiber-to-the home (“FTTH”). And since FTTH service is readily scalable to higher broadband speeds at significantly reduced incremental cost, deployed FTTH networks are more readily and less expensively able to respond to customer demands for higher and higher broadband speeds.

The primary exceptions to this general rule are the sparsely populated and rugged areas at the remote and outlying edges of significant numbers of RLEC service areas, particularly in the mountain and desert areas of the West. There, the construction and maintenance of tens of miles of fiber optic lines to isolated homes can be extremely expensive and time-consuming. This situation becomes even more complicated and expensive where rocky terrain makes it impossible or prohibitively expensive to bury outside plant, where pole attachments are unavailable or unduly expensive to obtain and maintain, and where some residents of remote edge areas live in trailers or other structures that can be readily moved or abandoned.

CAF-BLS build-out obligations need to be developed in conjunction with the CAF-BLS funding mechanism and budget at the same time that the size, characteristics and support needs of the CAF-BLS mechanism are determined after the EACAM migration. The major build-out issue is likely to involve the very high-cost outlying areas. If, as expected, the remaining CAF-BLS recipients serve a significant number of sparsely populated and expensive edge areas, the Commission could: (a) reduce the number or percentage of locations required to be provided access by CAF-BLS recipients to 100/20 Mbps or other specified broadband service level – either generally or in specified low density or very high cost areas; (b) permit CAF-BLS recipients to provide 25/3 Mbps, 10/1 Mbps or some other lower speed level of service in specified low density or very high cost areas; (c) permit CAF-BLS recipients to provide resold satellite service (with or without satellite voice service¹) in specified low density or very high cost areas; or (d) increase the CAF-BLS funding cap and budget to accommodate the very high costs of providing 100/20 Mbps or other high-speed broadband service to remote edge areas.

As with the related CAF-BLS funding mechanism and budget issues, WTA urges the Commission to take at least a year to monitor and study the build-out progress and problems of the remaining CAF-BLS/HCLS recipients (*i.e.*, those that do not elect to transition to model-based EACAM support) before considering the nature and extent of revised CAF-BLS build-out obligations.

CAF-BLS and HCLS Are Not Duplicated by Federal and State Grant Support

In paragraph 151 of the *NPRM* section, the Commission recognizes that grants are treated as capital contributions and are excluded from Part 32 property accounts and from the capital costs

¹ Many RLECs currently provide wireline or wireless voice service to remote locations on the far edges of their service areas. They can provide the low bandwidth for voice on traditional copper lines, but not the higher bandwidths required for high-speed broadband.

on which CAF-BLS and HCLS are based. Hence, the acceptance of federal and state broadband deployment grants by CAF-BLS and HCLS recipients will have no impact upon their CAF-BLS support or their HCLS support, and therefore will not give rise to any duplication or double recovery problems.

The *NPRM* notes at paragraph 152 that certain operating expenses are allocated among supported and non-supported services on the basis of relative amounts of capital, and that the exclusion of large amounts of plant associated with grants may result in distortions in the allocation of some operating expenses.

WTA suggests that the Commission monitor the impact of federal and state broadband grants upon the allocation of operating expenses that are supported by CAF-BLS and HCLS to determine whether any such impacts are widespread and/or material. If such impacts are nonexistent or very limited and immaterial, the costs of adopting and implementing continuing accounting, auditing and monitoring procedures is not justified. And if such impacts are widespread and material, the solution may be as straightforward as imputing capital grants for operating expense allocation purposes while continuing to exclude them from the capital costs on which CAF-BLS and HCLS are based.

Conclusion

The number of remaining CAF-BLS and HCLS recipients will not be known until the September 29, 2023 EACAM election, while the size, characteristics and broadband needs of the rural service areas that will continue to depend upon sufficient CAF-BLS/HCLS support will not be able to be determined for some time thereafter. Given these information needs and the value of efficiently and effectively targeting high cost support to areas what would otherwise remain unserved or underserved, WTA urges the Commission to monitor broadband deployment in the

remaining CAF-BLS/HCLS areas for at least one year before embarking upon the consideration of potential changes to CAF-BLS, HCLS and other legacy support mechanisms, deployment obligations, budgets and budget control mechanisms, and accounting procedures and allocations.

Respectfully submitted,
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