

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
To: The Commission

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Section 1.115 of the Commission’s rules, submits these comments on the Applications for Review filed in the above-referenced docket by NTCA–The Rural Broadband Association (“NTCA”) and WTA – Advocates for Rural Broadband (“WTA”).¹ NTCA and WTA seek Commission review of an Order (DA 18-710) released July 6, 2018 by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology (the “*Order*”). NTCA and WTA seek, among other things, a delay, deferral or temporary suspension of implementation of the performance testing requirements imposed by the *Order*, at least as applies to smaller providers.² WISPA supports this reasonable request.

NTCA and WTA are correct that, for a variety of reasons, implementing the performance testing requirements will be particularly challenging for small providers, not the least of which is that the equipment necessary for small providers to carry out their obligations under the *Order* is simply not yet readily available. This is a very practical, and very real, concern. As has been the case in various other contexts, smaller providers are disproportionately impacted when

² WISPA concurs with NTCA that, for the purposes of the relief requested by it and WTA, and supported by WISPA herein, a small provider should be defined as one that serves no more than 250,000 subscribers. *See* NTCA AFR at 11.

implementing regulatory requirements that involve the purchase and installation of new equipment or the retrofitting of equipment that is already operational. Given the very challenging economic environments in which most small providers operate, regulatory compliance costs disproportionately impact the financial burdens on operators, so it is important not only for such equipment to be readily and commercially available, but also for it to have been thoroughly tested for reliability well in advance, and to be obtainable at a reasonable cost.

Here, concerning equipment that will be necessary to implement the speed and latency testing required by the *Order*, WTA is undeniably correct that small providers “do not yet know what equipment options will be available to choose from, when some equipment options will be offered for commercial sale and delivery, or how much they will cost.”³ Small providers, and especially those in rural areas, also do not know if third party consultants will be able to offer performance testing support services at prices affordable to them.⁴ While such availability and cost issues may have little impact on the operations of large, nationwide providers that purchase a substantially higher volume of equipment and can even have equipment specially designed for them, such concerns are extremely important to small providers. As NTCA correctly notes, smaller providers usually have to buy “off the rack equipment,” and it takes time for such equipment to be developed, tested, and to “reach[] their doors”⁵ at prices they can afford. For these reasons alone, the Commission should delay the effective date of the new requirements until twelve months after such equipment becomes widely available on the market to allow small operators to first identify suppliers, then test equipment, negotiate pricing, and scale the devices into use.

³ WTA AFR at 11.

⁴ *See Id.*

⁵ NTCA AFR at 9-10.

WISPA also agrees with NTCA and WTA that, even after appropriate, affordable equipment comes on the market, small and rural providers will face the additional challenge of obtaining the cooperation and consent of their customers to participate in performance testing, including having the new equipment installed at their homes and businesses. Many customers may be opposed to the disruption and intrusion of another visit to their premises for an “upgrade” in equipment, especially when they learn that the equipment and testing is not for their benefit but rather to comply with federal government regulation. At a time when privacy concerns are prominent, customers may understandably be wary of agreeing to use new equipment that they suspect could have the ability to surveil their activities. The Commission must take into account the practical difficulties that small and rural providers will encounter in obtaining customer cooperation. Sufficient time must be permitted to allow the providers to work through the implementation challenges unique to their markets.

Like NTCA and WTA, WISPA does not oppose the concept of performance testing to ensure compliance with speed and latency metrics, and agrees that high-cost recipients must be accountable to the Commission. But WISPA urges the Commission to “allow the market to ‘catch up’ to the requirements by developing equipment that enables economically and administratively efficient compliance.”⁶ In addition, WISPA encourages the Commission to be cognizant of the unique challenges that small and rural providers will face in soliciting and obtaining customer buy-in for the installation of such equipment at their homes and businesses. For these reasons, WISPA supports the requests of NTCA and WTA to postpone implementation of the compliance testing requirements.

⁶ *Id.* at 12.

Respectfully submitted,

**WIRELESS INTERNET SERVICE
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CERTIFICATE OF SERVICE

I, Genevieve F. Edmonds, hereby certify that on this 4th day of October 2018, I caused a true and correct copy of the foregoing Comments of the Wireless Service Providers Association on Applications for Review to be served on the following by first class mail, postage prepaid:

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