



COLORADO

Broadband Office

Governor's Office of Information Technology

October 21, 2019

Ms. Marleene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Response to FCC's Notice of Proposed Rulemaking adopted August 1, 2019
and Released August 2, 2019 seeking comments from interested parties
concerning WC Docket Nos. 19-126 and 10-90.

Dear Ms. Dortch:

We appreciate the opportunity to file comments in the Rural Digital Opportunity Fund (RDOF) proceeding to call attention to the importance of leveraging federal broadband funding to deploy critical broadband infrastructure in our state. The State of Colorado began focusing on broadband with the State Broadband Initiative (SBI) award from the National Telecommunications and Information Administration (NTIA) in 2009 and continued funding and expanding this work after the federal funding ended in 2014. The Colorado Broadband Office (CBO) was formed in 2017 because the State of Colorado recognized that in today's economy, broadband is the engine for economic stability and growth, and the foundation for the economic survival in rural communities. The CBO's mission is to enable the development of a statewide communications infrastructure through public-private partnerships to meet the growing demand for broadband access for public safety, education, healthcare, transportation, and all Coloradans. The CBO works across state agencies, aligning objectives to support a holistic approach to local and regional broadband solutions, while identifying federal, state, and private investment to fund those efforts.

The State of Colorado has a strong commitment to fund rural broadband through two complementary programs. Since 2013, the Department of Local Affairs (DOLA) Broadband Program has funded \$20 million in middle mile broadband planning and infrastructure grants with a 50% match from local governments. DOLA recently committed an additional \$25 million over the next five years for this program. The Department of Regulatory Affairs (DORA) Broadband Fund has awarded \$19 million in grants to twenty eight last mile deployment projects since 2016 impacting 17,000 rural households. In 2018, The state committed an additional \$115 million to the Broadband Fund over the next five years.

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The State of Colorado is continually evaluating creative and forward thinking funding solutions to close the rural broadband gap. The scope of this challenge requires a collaborative approach at all levels of government, similar to the electric and telecommunication infrastructure deployment initiatives the United States undertook in the early 19th century. We support the recommendations made by numerous commenters in this proceeding, including the need to base funding decisions on more granular data, Commission collaboration with state partners, and encouragement of investment in future-proof networks by traditional and non-traditional carriers.

Better Data

The CBO supports the Commission's proposed two-phase approach for the RDOF, focusing on wholly unserved areas in the first phase, and expanding funding to additional locations once more granular data is available as a result of the Digital Opportunity Data Collection (DODC). We agree with numerous commenters who recommend that in Phase I, the Commission prioritize areas lacking 10/1 Mbps service, rather than the 25/3 Mbps service proposed. We believe this will better target the commitment of scarce resources and reduce the incidence of "re-funding" those providers and areas that previously received funding to deploy speeds of 10/1 Mbps.

We concur with concerns expressed by the Pennsylvania Joint Commenters, the Wireless Internet Service Providers Association, and others about moving forward with the proposed auction based on flawed data. Until a more accurate methodology of data collection can be agreed upon through the DODC process, it is best to direct limited resources to previously unfunded areas. Specifically, we are concerned that the timing lag between the most recent Form 477 data and the auction event could lead to duplicative funding. To address this concern, we agree with the comments filed by the Nebraska Public Service Commission (NPSC), stating "RDOF support may be better targeted to areas where no support has been planned or awarded" from state and federal programs. To avoid duplication of funding, we agree with numerous comments filed, which suggested the Commission must work with state broadband offices and commissions to identify and refine eligible unserved areas. Further, we support the Commission's proposal to conduct a challenge process for RDOF Phase I to ensure proposed areas are unserved.

We support the Commission's proposal to use more granular data to identify unserved locations within partially served census blocks in the RDOF Phase II. The State of Colorado filed comments in the DODC proceeding¹ supporting the Commission's proposal to collect more granular data and recommending additional measures for improving data accuracy. Numerous comments referred to studies which have shown that large numbers of locations are inaccurately designated as served in current Form 477 data. The use of more granular data will address the long-standing misrepresentation that if one location in a census block is served all are assumed served.

¹ See Comments of the State of Colorado, filed in Federal Communications Commission's (FCC) Report and Order and Second Further Notice of Proposed Rulemaking (Second FNPRM), Digital Opportunity Data Collection (DODC) WC Docket Nos. 19-195 and 11-10, filed September 23, 2019.



Reverse Auction Criteria

We strongly agree with the Commission's proposal to exclude the "Minimum Performance Tier." We applaud the Commission's recognition that funding should not be allocated to service less than 25/3 Mbps. We agree with the Mississippi Public Service Commission (MPSC) and the California Public Utilities Commission's (CPUC) comments recommending improvements to the current weighting factors to support deployments with higher speeds and lower latency. We believe that it is important to incent the deployment of scalable "infrastructure capable of supporting the ever-increasing demands for broadband speed and throughput of residents, businesses, and community anchor institutions"². We also recommend the inclusion of other weighting factors to promote high speed, scalable, futureproof networks, such as the MPSC's suggestion to decrease latency, and improve weighting for symmetrical download and upload speeds, as it better reflects trends in broadband service provision we are experiencing in Colorado.

Federal-State Partnerships

The CBO appreciates the Commission's acknowledgement that the Universal Service Fund (USF) is a federal-state partnership³, and we recommend that the Commission facilitate that partnership through the RDOF process. We agree with the CPUC's recommendation, in this proceeding, that the final rules for the RDOF "should include an option for states to pursue a federal-state partnering approach, similar to the one authorized for the State of New York." In the New York Waiver Order the Commission granted New York a waiver of the Connect America Fund (CAF) Phase II auction program rules, granting New York access to CAF funds outside the traditional process. We believe this type of federal-state partnership leverages state specific broadband deployment knowledge, allowing for a more targeted use of scarce funding to achieve the Commission's goal of closing the broadband gap.

Include Non Eligible Telecommunications Carriers (ETCs)

The Commission proposes to adopt the same ETC designation procedures for the Rural Digital Opportunity Fund that was adopted for the CAF Phase II auction⁴. The CBO agrees with the Commission's conclusion on this point and further we think that this approach will encourage participation by the broadest range of service providers, offering high speed, scalable, futureproof networks.

² See Comments of the California Public Utilities Commission, filed in Federal Communications Commission's (FCC) Rural Digital Opportunity Fund; Connect America Fund, Notice of Proposed Rulemaking, WC Docket Nos. 10-90, 19126 (rel. August 2, 2019), pg 8.

³ See WC Docket Nos. 10-90, 14-58 (FCC 17-2) (2017) (New York Waiver Order), pg 14, paragraph 34.

⁴ Rural Digital Opportunity Fund, WC Docket No. 19-126; Connect America Fund, WC Docket No. 10-90; Notice of Proposed Rulemaking, FCC 19-77 (rel. Aug.2, 2019).



RDOF Reporting

The Commission proposes to adopt the same reporting requirements for the RDOF adopted for the CAF Phase II auction. The CBO supports this proposal and recommends the RDOF reporting be transparent, understandable, readily accessible, and shared openly with state broadband offices and commissions so that states can leverage the data in directing state broadband funding. Further, we support the Pennsylvania Joint Commenters' recommendation in this proceeding, which states "the reporting requirements should require recipients to provide information to state commissions that adequately confirms and validates that participating carriers are meeting their broadband deployment obligations."

Subscription Obligation

The Commission seeks comment on a proposal to adopt subscribership milestones for support recipients, suggesting a subscribership level of 70%. The CBO agrees with the National Rural Electric Cooperative Association (NRECA), that this metric should not be adopted. A requirement for RDOF recipients to attain a subscription rate of 70%, which exceeds the national average subscription rate of 60.2%⁵, as identified in a 2019 FCC Broadband Deployment Report, is unreasonable and would deter provider participation.

The State of Colorado is committed to continuing to remove barriers to broadband deployment and supporting federal and state collaboration to enable rural broadband availability for public safety, education, healthcare, transportation, and all Coloradans. Thank you in advance for your time and consideration of our reply comments. We look forward to working with the Commission to accomplish our shared goals of closing the digital divide throughout our nation so that all our communities may thrive and prosper.

Sincerely,



Anthony Neal-Graves
Executive Director

⁵ 2019 FCC Broadband Deployment Report, Federal Communications Commission (May 29, 2019).

