

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Establishing Just and Reasonable Rates For Local Exchange Carriers)	WC Docket No. 07-135
)	
Developing a Unified Inter-carrier Compensation Regime)	WC Docket No. 01-92
)	

COMMENTS OF NCTA – THE INTERNET & TELEVISION ASSOCIATION

NCTA – The Internet & Television Association (NCTA) strongly supports the Commission’s decision to establish a competitive bidding process for certain study areas served by legacy rate-of-return carriers,¹ but the Commission’s proposal does not go nearly far enough. At this point, competitive bidding should be used as the standard method of distributing support in any area where support is needed.

The Commission’s decision to establish a competitive bidding process for certain areas served by legacy rate-of-return carriers is long overdue. The Commission recognized in the 2011 *CAF Order* that competitive bidding was a superior method of distributing support.² It subsequently has demonstrated the success of a competitive bidding model in a variety of contexts, most recently in its highly successful CAF Phase II auction. As Chairman Pai explained: “By tapping the mechanisms of the marketplace, the Phase II auction served as the most appropriate and cost-effective way to allocate funding for broadband in these unserved

¹ *Connect America Fund*, WC Docket No. 10-90, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, FCC 18-176 (rel. December 13, 2018) (*Further Notice*).

² *Connect America Fund*, WC Docket No. 10-90, 26 FCC Rcd 17663, 17727 (2011) (“We conclude that the Connect America Fund should ultimately rely on market-based mechanisms, such as competitive bidding, to ensure the most efficient and effective use of public resources.”).

communities, bringing the highest-quality broadband services to the most consumers at the lowest cost to the ratepayer.”³

In the *Further Notice*, the Commission proposes to use competitive bidding only in areas with a significant competitive overlap and asks what the appropriate threshold should be for moving to a competitive bidding process.⁴ While NCTA appreciates the Commission’s proposal to implement competitive bidding in these areas, the proposed approach is far narrower than is warranted. Given the wide range of non-ILECs that participated in the CAF II auction for support in unserved areas with *no* competitive overlap, there is no reason to limit competitive bidding only to those rate-of-return study areas with more than 95 percent competitive overlap.⁵ Such an approach artificially and unnecessarily limits the number of areas eligible for competitive bidding and harms the consumers in those areas by depriving them of the opportunity for competitive service. It is also a disservice to the American consumers that fund the CAF program, who should have confidence that the money they contribute is being spent as efficiently as possible.

To be clear, even if the Commission opens up areas for auction, the incumbent LEC may prevail in the competitive bidding process. Rate-of-return LECs have received federal funding in these areas for decades and in some cases it may be difficult for new entrants to make a compelling business case for entering the market. But the CAF Phase II auction demonstrated that new types of providers, such as fixed wireless, may be able to outbid and outperform the

³ News Release, *Connect America Fund Auction to Expand Broadband to Over 700,000 Rural Homes and Businesses* (Aug. 28, 2018).

⁴ *Further Notice* at ¶ 185.

⁵ NCTA previously advocated that the Commission introduce competitive bidding in any study area in which any combination of unsubsidized competitors serves 50 percent or more of the locations. *See* NCTA Comments, WC Docket No. 10-90 (May 25, 2018) at 4. Given the subsequent success of the CAF II auction, there is no reason not to expand competitive bidding to areas with an even smaller competitive overlap.

incumbents and those new entrants should be given every opportunity to compete for that support in legacy rate-of-return areas.

Respectfully submitted,

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