



**Mary L. Henze**  
Assistant Vice President  
Federal Regulatory

**AT&T Services, Inc.**  
1120 20<sup>th</sup> Street, NW  
Suite 1000  
Washington, DC 20036

T: 202.457. 2041  
M: 202-213-8942  
mary.henze@att.com  
[att.com](http://att.com)

March 15, 2019

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, NW  
Washington, DC 20554

**Re: *Connect America Fund, WC Docket No. 10-90***

Dear Ms. Dortch,

On March 13, 2019, Steve Coran of WISPA, Mike Jacobs of ITTA, and Mary Henze of AT&T met with Preston Wise of Chairman Pai's office to discuss issues raised in the joint petition for reconsideration (PFR) of the CAF Performance Metrics order filed by USTelecom, WISPA, and ITTA.<sup>1</sup>

The associations have had productive meetings with Bureau staff and appreciate the attention being paid to many of the PFR issues.<sup>2</sup> The associations, however, continue to be concerned by the mismatch between the *Order's* treatment of latency vs. speed testing as well as the harsh compliance framework adopted for even minor misses of latency and speed targets. Given the work still to be done to finalize the performance metric rules, we strongly urged the Commission to delay the current July 1, 2019 start date for testing.

The *Order* adopts a reasonable one-test-per-hour and 80/80 compliance standard for speed testing, but by contrast requires one-test-per-minute for latency and maintains the prematurely adopted 95% compliance standard. The *Order* does not explain why a more onerous standard is necessary for latency testing nor does it acknowledge the burden that disparate testing protocols imposes on carriers.

Latency is not a network property that fluctuates to the degree that requires such granular testing. To illustrate this point, AT&T recently tested the latency of service delivered to actual CAF II customers at both a once-per-minute frequency and a once-per-hour frequency over the same peak period hours. There was no statistically significant difference between the results. Both test samples showed that the service complied with CAF II latency requirements but testing once-per-minute generated 60 times more data in reaching that result.

---

<sup>1</sup> While USTelecom staff were not present at the meeting, it shares the views expressed in this exparte.

<sup>2</sup> Consistent with the PFR, we also addressed confusing language in the *Order* regarding the speed standard against which compliance is to be tested, advocated for the ability to use the same testing pool for both speed and latency testing, urged expansion of the Internet access points to which performance is tested, and requested clarification of when within testing hours tests must be performed.

Similarly, the *Order* keeps the 95% compliance standard for latency that was adopted in 2013. As the associations noted in their PFR, the 95% standard was adopted well before final CAF program rules.<sup>3</sup> Many other CAF requirements have evolved over the course of the program's development, and this is another one that should be changed to reflect reality.

In another mismatch, the *Order* adopts a harsher Compliance Framework for missing speed and latency benchmarks than the Commission itself has already adopted for numerous programs for compliance with broadband deployment milestones. The build-out milestones recognize the complexity of large network builds and reasonably tailor the compliance action to the severity of the compliance miss. The deployment compliance framework does not, for example, withhold funding until the carrier misses a milestone by 15% because it is counterproductive to remove the funding the carrier relies on to continue to deploy broadband. As the Commission has explained, the goal of the deployment compliance framework is to ensure carriers meet their broadband commitment; it is not to cripple their ability to do so by sanctioning them for a minor, and temporary, miss of a milestone. The same rationale should apply to performance measurements, but the *Order* establishes a framework that would begin to withhold funding for a 1% miss of a speed or latency target. We urged the Commission to instead match Tier 1 of both compliance frameworks as "5-15%, quarterly reporting only."

Pursuant to Commission rules, please include this exparte filing in the above identified proceeding. If you have any questions regarding the matters discussed please contact Steve Coran (202) 416-6744, Michael Jacobs (202) 898-1520, or the undersigned.

Sincerely,

/s/ Mary L. Henze

Mary L. Henze

cc: P. Wise

---

<sup>3</sup> As far as we can determine, the 95% standard was never submitted for Paperwork Reduction Act approval, which means it never took effect.

