

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	
Rural Digital Opportunity Fund)	WC Docket No. 19-126
)	
Connect America Fund)	WC Docket No. 10-90
)	
Auction)	AU Docket No. 20-34

REPLY COMMENTS OF USTELECOM—THE BROADBAND ASSOCIATION

USTelecom – The Broadband Association¹ respectfully submits these reply comments in response to the Federal Communications Commission’s (Commission) Public Notice proposing implementation procedures for the Rural Digital Opportunity Fund (RDOF) auction.²

Commenters widely support USTelecom’s position on the use of census block groups as the best standard for eligible service areas and the need to ensure that only qualified bidders are able to participate in the auction.

¹ USTelecom is the nation’s leading trade association representing service providers and suppliers for the broadband innovation industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications and broadband services to hundreds of millions of customers around the world.

² Comments Sought on Competitive Bidding Procedures and Certain Program Requirements For the Rural Digital Opportunity Fund, Public Notice, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, FCC 20-21 (rel. Mar. 2, 2020) (“Public Notice” or “PN”).

I. THE COMMISSION SHOULD ADOPT AUCTION PROCEDURES THAT BEST PROMOTE THE COMMISSION’S GOALS

A. Census Block Groups is the Best Standard for Eligible Service Areas.

One of the targeted changes USTelecom proposed in its comments was the retention of census block groups as the eligible area for the RDOF auction.³ The majority of commenters supported this suggestion and only a single commenter was in favor of using census block tracts.⁴ Most commenters agreed with USTelecom that not only will the use of census block groups provide greater flexibility than relatively larger geographic areas, it will also ensure the most amount of competition within the auction.⁵ Furthermore, many commenters argued that since the Commission had previously used census block groups without issue, there is no benefit to moving away from the census block group methodology at this time.⁶

B. The RDOF Auction Should Not Be Delayed

The California Public Utilities Commission (CPUC) was the lone commenter arguing for a delay of the RDOF auction.⁷ While it is true that the American public and all levels of government are responding to the most aggressive global pandemic in a century, and that

³ See Comments of USTelecom – The Broadband Association, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 6 (Comments of USTelecom).

⁴ See Comments of Hughes Network Systems, LLC, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 6.

⁵ See e.g., Comments of Smith Bagley, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 2-4; Comments of National Rural Electric Cooperative Association & Utilities Technology Counsel, WC Docket Nos. 19-126, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 5-7 (Comments of NRECA &UTC); Comments of ACA Connects – America’s Communications Association, WC Docket Nos. 19-126, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 3-4 (Comments of ACA); Comments of WTA – Advocates for Rural Broadband, WC Docket Nos. 19-126, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 2 (Comments of WTA); Comments of Fiber Broadband Association, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 11 (Comments of FBA); Comments of Wireless Internet Service Providers Association, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 4 (Comments of WISPA).

⁶ See e.g. Comments of ACA at 3; Comments of NTCA – The Rural Broadband Association, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 2-3; Comments of WISPA at 4-5.

⁷ See Comment of California Public Utilities Commission, WC Docket Nos. 19-126, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 2.

telecommunications providers are working hard to keep their networks fully in service, this is not an adequate reason for the Commission to delay an auction that is not due to start until October. If anything, this crisis has shown how important it is for all Americans to have access to high-speed broadband so that they have sufficient connectivity to successfully work, learn and access healthcare services from home. The Commission should move ahead with the RDOF auction this year so that funding can be awarded to rapidly close the digital divide.

C. Commission Should Affirm Its Decision to Exclude Previously Funded Projects.

In its joint comments, National Rural Electric Cooperative Association (NRECA) and Utilities Technology Counsel (UTC) urge the Commission to include areas as eligible that have been awarded funding for 25/3 Mbps services under state or other federal programs.⁸ Despite the fact that the exclusion of these areas has already been decided upon by the Commission, NRECA and UTC indicate that they are not seeking reconsideration but merely clarification that the Commission's rules were not intended to prevent funding for better services than what is being funded under state or other federal programs to provide 25/3 Mbps services.⁹ NRECA and UTC essentially concede this point by arguing against the Commission's decision, stating that excluding those areas receiving state or other federal funding overlooks the important interplay between ongoing support through RDOF I and other programs including the Rural Utilities Service ReConnect program that provide financing for construction and other upfront network deployment activities.¹⁰ The Commission is quite clear on this point in the RDOF Report and Order stating, "we will exclude those census blocks which have been identified as having been

⁸ Comments of NRECA & UTC at 9.

⁹ *See Id.*

¹⁰ *See Id.* at 8.

awarded funding through the U.S. Department of Agriculture’s ReConnect Program, or awarded funding through other similar federal or state broadband subsidy programs to provide 25/3 Mbps or better service,”¹¹ and that the decision is consistent with the Commission’s overarching goal of ensuring that finite universal service support is awarded in an efficient and cost-effective manner and does not go toward overbuilding areas that already have service.¹² The Commission also acknowledges that although it sought comment on whether there are any other areas that it should include in the initial list of eligible areas, it “decline[s] to expand the list of eligible areas at this time and instead focus Phase I on the known wholly unserved census blocks.”¹³ Couching a request for reconsideration as a need for clarification does not change the fact that this is a decided issue and the Commission should stand by that decision.

II. THE COMMISSION MUST ENSURE THAT ONLY QUALIFIED BIDDERS PARTICIPATE IN THE AUCTION

It is vitally important to our nation’s broadband future that that no consumer be short-changed through premature reliance on proposed technologies and/or service offerings that have not been fully demonstrated in the market.¹⁴ Not surprisingly, many other commenters agree with this perspective.¹⁵ Commenters agree that it is unwise to let unproven technologies with no demonstrable evidence of ability to provide service participate in the RDOF auction, because to

¹¹ See *In the Matter of Rural Digital Opportunity Fund, Connect America Fund, et al.*, Report and Order, 35 FCC Rcd. 686, 692, para 13 (Jan. 30, 2020), (“RDOF R&O”).

¹² See *Id.*

¹³ See *Id.*

¹⁴ See Comments of USTelecom at 1-5.

¹⁵ See e.g., Comments of California Internet, L.P. d.b.a. GeoLinks, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 3-5; Comments of FBA at 3-11; Comments of NTCA at 8-13; Comments of ADTRAN, Inc., WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 3-5 (Comments of ADTRAN); Comments of Tennessee Electric Cooperative Association, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 3-4; Comments of Gibson Electric Membership Corporation and Gibson Connect, LLC, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 3.

do so would at best undermine the Commission’s goal to be technologically neutral, and at worst create a risk of failure that is too great to leave to chance.¹⁶ As commenter Conexon aptly points out, the difference between those entities working on the provision of broadband by use of low earth orbit satellites (LEOs) and every other technology to be used by bidders in the RDOF Phase I auction is that every other bidder’s standards and engineering assumptions are generally known.¹⁷ In its comments, SpaceX asks the Commission to accept that their proposed Starlink service offering is not experimental or untested simply because, “it is dictated by the laws of physics,”¹⁸ while others point out that the math doesn’t add up.¹⁹ Conexon notes that at its current pace, SpaceX has not launched a sufficient number of satellites in order to meet the first, second, third or final RDOF milestone and that even if they dramatically increased their current pace and deployed 10,000 satellites by the first milestone, and each of those satellites can support 20 Gbps, SpaceX will still not have sufficient capacity to provide Gigabit service throughout rural America.²⁰

Even if a bidder can demonstrate that its technology is capable of meeting a minimum technical standard, the fact that such bidder has yet to actually provide service to any customers prior to the auction starting is a highly relevant factor that the Commission must consider, particularly for an industry that has a long history of bankruptcies. Indeed, the morning after comments on the RDOF PN were filed, OneWeb, one of several entities attempting to provide

¹⁶ See e.g., Comments of NTCA at 8-13; Comments of Conexon, LLC, WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 1-5; Comments of WTA at 8-9; Comments of ADTRAN 3-5.

¹⁷ See Comments of Conexon at 5.

¹⁸ See Comments of Space Exploration Technologies Corp., WC Docket Nos. 19-26, 10-90, AU Docket No. 20-34 (Mar. 27, 2020) at 2.

¹⁹ See Comments of Conexon at 4-5, noting that [???

²⁰ See *Id.*

high speed broadband via low earth orbit (LEO) satellites filed for bankruptcy.²¹ As reported, OneWeb had based its business plan on the possibility of providing high speed internet service via 74 internet satellites that it had launched into orbit over the past few months. However, the company faced substantial financial and technological problems.²² The OneWeb experience is not new and success is not guaranteed, as proven by several previous ventures that attempted to build similar satellite-based internet constellations, all of which either went out of business, filed for bankruptcy, or drastically restructured their business plans.²³ Allowing participation by any entity that cannot provide service now would take risks with scarce public funding that are unnecessary and unwise.

III. CONCLUSION

USTelecom appreciates the game-changing opportunity the Rural Digital Opportunity Fund represents to provide broadband service for all Americans. The Commission should adopt the proposals contained herein which will better ensure a successful auction.

Respectfully submitted,

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²¹“Softbank-backed satellite startup OneWeb Files For Bankruptcy”, CNN.com (March 28, 2020).
<https://www.cnn.com/2020/03/28/tech/oneweb-softbank-bankruptcy-scn/index.html>

²² *See Id.*

²³ *See Id.*