

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
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 Intercarrier Compensation Regime)	CC Docket No. 01-92

**PETITION FOR RECONSIDERATION
HAMILTON COUNTY TELEPHONE CO-OP**

Hamilton County Telephone Co-op (“Hamilton” or the “Cooperative”), pursuant to Section 1.429 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”) hereby seeks reconsideration of the FCC’s March 23, 2018 Report and Order, wherein the FCC provides additional support to fund model-based broadband deployment.¹ Hamilton applauds the Commission for taking such an important step to increase funding for rural broadband deployment, and acknowledges the positive impact that the additional \$36.5 million in Alternative Connect America Model (“A-CAM”) funding will have on rural and remote communities nationwide. However, Hamilton urges the FCC to reconsider its decision in one very specific and limited matter: making a minor increase in the amount of additional A-CAM support to provide funding for the locations which were precluded from receiving support

¹ See *Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking*, WC Docket Nos. 10-90, 14-58, 07-135, CC Docket No. 01-92 (rel. March 23, 2018), FCC 18-29 (“2018 USF Orders” and “USF NPRM”).

due to a competitor erroneously reporting wider broadband coverage than reality on its Form 477, which has since been updated to more closely reflect reality. As a result of the erroneous reporting, thousands of rural customers have no alternative for broadband. At the very least, the Commission should seek comment on including these abandoned locations in the *USF NPRM* as it considers additional A-CAM funding opportunities, such as “fully funding” the A-CAM at a \$200 per-line cap and extending another offer of A-CAM support.

I. Introduction

Hamilton provides service in Illinois and accepted A-CAM support for its study area. Hamilton’s ILEC operations in Illinois are extremely rural in nature spanning over 825 square miles and including seven exchanges over seven counties. The unserved and underserved locations are typically in parts of the study area that have approximately two (2) or fewer homes per square mile.

Hamilton was eliminated from more than 75% of the A-CAM funding that it was initially eligible to receive prior to the final offer to rate-of-return ILECs on August 3, 2016,² all due to an inaccurate report of an unsubsidized fixed wireless provider, known as “Wisper”, stating that it provided broadband in a vast majority of the census blocks in Hamilton’s study area. While Hamilton knew this was false and did its own internal field investigation, Hamilton took great pains in preparing a detailed challenge to document and illustrate the extremely obvious inaccuracies presented in Wisper’s filing.³ Specifically, Hamilton realized that it would not be taken seriously in any consideration by providing its own assessment or investigation, thus hired a third-party engineer independent of and having no previous knowledge or bias of the area in

² See *Wireline Competition Bureau Announces Support Amounts Offered to Rate-of-Return Carriers to Expand Rural Broadband*, WC Docket No. 10-90 (rel. August 3, 2016), DA 16-869, (“A-CAM Offer Public Notice”).

³ See *A-CAM Competitive Coverage Challenge by Hamilton County Telephone Co-op*, WC Docket No. 10-90 (filed April 28, 2016) (“Hamilton’s Challenge”).

question, to conduct an extensive drive test to detect radio frequency signal, and to also assess the ability for the equipment employed by Wisper to serve the claimed number of customers covered, the results of which rendered Wisper's 477 technically and theoretically *impossible*. Hamilton also cited specific published statements by Wisper's own CTO stating the limitations inherent in their network which completely contradict the coverage claimed in Wisper's 477. Hamilton's Challenge even included an email from Wisper sales staff advising of a lack of coverage and available service in areas claimed to be covered by the company's 477 and provided a verified statement of a customer subscribed to Wisper's 10/1 Mbps service noting his inability to actually receive the level of bandwidth advertised. Additionally, Hamilton's Challenge provided specific engineering data illustrating that under optimal conditions, Wisper could not provide the level of coverage claimed.⁴ This lack of coverage was demonstrated mathematically even assuming only a single location per census block served by Wisper. Despite such overwhelming and conclusive evidence, much of which was based on information provided by Wisper itself, the FCC denied Hamilton's challenge and assumed, without investigation, that Wisper's 477 data was correct because it had been certified as such.

Due to Wisper's over-reporting of broadband service, there were 2,444 locations that should have qualified for A-CAM support but were excluded from receiving any support. Hamilton estimates that the 2,444 number of locations that were excluded from funding should have received approximately \$2,384,372 per year in support as originally proposed by the FCC. In light of the elimination of support for these locations, Hamilton, a small average schedule

⁴ Based on the capacity limitations of Wisper Internet's network, Palmetto Engineering & Consulting, Hamilton's third-party engineer, concluded that Wisper's network is unable to provide a level of service remotely approaching that claimed in Wisper's Form 477, and that Wisper's Form 477 data in Hamilton's study area is false and unusable for an exercise requiring an accurate depiction or understanding of 10/1 Mbps service availability offered by Wisper even assuming a one location per census block threshold.

company with only moderate levels of broadband coverage, will not have the wherewithal to extend broadband to the 2,444 residential and business customers “abandoned” as a consequence of Wisper’s inaccurate Form 477 data.

II. The 2018 USF Orders Should be Modified to Allow for Inclusion of Funding for the Locations that Were Excluded Due to Wisper’s Over-reporting of Broadband

Granting this Petition, not only advances the public interest by enabling an additional 2,444 locations in rural Illinois to receive broadband, but keeps in parallel the mission and goals laid out by the FCC, removing the contradiction being displayed today. As set forth in the *2018 USF Orders*, the Commission will offer additional A-CAM funding up to \$146.10 per-location to all carriers that accepted the revised offer for their ten-year support term. Taking this action will “shift” locations that are currently funded at the 4/1 or reasonable request level to receive broadband at 10/1 or 25/3. Specifically, the FCC estimates that by increasing the per-location cap to a uniform \$146.10, the number of additional locations that will receive 25/3 Mbps broadband over 10 years could be more than 17,700 with another 14,000 locations receiving 10/1 Mbps.⁵ In order to “shift” these locations to receive higher broadband speeds, the FCC will add \$36.5 million to the A-CAM budget.

Hamilton intends on accepting this offer and is already adjusting its buildout schedule to ensure that the affected locations in its funded census blocks receive the higher speeds as promptly as possible. However, the 2,444 locations eliminated from funding will not be eligible for the additional funding. On the contrary, absent grant of this Petition, these locations will continue to be excluded from any A-CAM support, and have no alternative broadband provider. Accordingly, any increase in A-CAM funding should actually go first to these locations so that

⁵ See *2018 USF Order* at ¶ 67.

these individuals would at least receive the same level of broadband offered to all other locations whose carriers accepted the revised offer. As that did not occur in the *2018 USF Orders*, the FCC should reconsider its decision and include an additional \$2,384,372 to the \$36.5 million that it has made available for the ten-year period.⁶

Such a minor increase is already supported in the record. In its *2018 USF Orders*, the FCC cites the “ample support in the record from carriers and state government officials, as well as from members of Congress” for increasing the A-CAM budget.⁷ This support was provided in the context of the additional \$110 million which the FCC estimated that it would need to increase the overall high-cost budget if all carriers electing the A-CAM offer were “fully funded” using the \$200 per location funding cap.⁸ The expectation that a relatively small investment in USF support can yield thousands of new broadband subscribers is clearly understood by the FCC and myriad stakeholders who encouraged the FCC to provide additional funding for A-CAM companies, and the same widely-supported expectation should be applied to Hamilton’s very specific situation as well. If the FCC agreed to provide additional funding for all A-CAM recipients so that more funded locations could receive 10/1 or even 25/3 Mbps broadband, why wouldn’t it follow that the FCC should provide additional funding for Hamilton to ensure that its 2,444 unfunded rural locations within its study area can receive broadband? There is a well-documented record in the proceeding leading up to the *2018 USF Orders* that increasing A-CAM funding will help achieve the intent of the FCC, Congress and the Presidential Administration to

⁶ While this petition seeks that the additional funding allocated to A-CAM be increased to approximately \$38.9 million per year for the 10-year term, some carriers may choose to not accept the offer. Accordingly, the result of granting this petition may result in an additional funding which is lower than this amount.

⁷ See *2018 USF Order* at ¶ 66.

⁸ *Id.* at ¶ 65.

increase rural broadband deployment to stimulate rural economies. Hamilton urges the FCC to apply the same rationale to these abandoned locations.

Since Hamilton accepted A-CAM support, Wisper has in fact updated its Form 477 and reduced the number of census blocks that were previously reported that “knocked out” many of Hamilton’s rural locations from receiving funding. In addition, Wisper has decommissioned a tower situated near Hamilton’s study area that would have supposedly served some of the locations that were rendered ineligible from the A-CAM funding. Hamilton knows without doubt that Wisper has no intention of providing service in these areas, and as a result, Hamilton should be eligible to receive A-CAM support for its remaining, unfunded locations in light of this new evidence that was not previously known to the Commission during the A-CAM election timeframe.

For reasons described herein, Hamilton respectfully requests that the FCC reconsider its decision and restore the A-CAM funding to allow for inclusion of these 2,444 abandoned locations.

III. At the Very Least, the FCC Should Seek Comment on Including Funding for the Locations in its *USF NPRM*

If the FCC decides not to reconsider the level of additional funding, at the very least the Commission should absolutely reconsider the proposals regarding additional A-CAM on which it seeks comment in the *USF NPRM* to seek comment on adding \$23,843,720 over ten (10) years for the 2,444 locations in Hamilton’s service area that were denied funding. Specifically, funding these locations should be included in proposals that “fully fund” the A-CAM at the original \$200 per-line cap or that consider a new A-CAM offer for glidepath or for non-glidepath carriers. Hamilton has rural customers who need broadband, and Hamilton knows that the A-

CAM is the most efficient and reliable way to ensure that their most rural customers are not left behind in the digital divide.

In the USF NPRM, the FCC asks a number of questions about fully funding the A-CAM as well as extending a new model offer, including which carriers should be eligible to participate. Hamilton is already on the record in supporting fully funding the A-CAM in a manner which would include funds to address the 2,444 locations in which support was eliminated.⁹ With regard to whether to extend a new model offer, the FCC proposes to “update the broadband coverage data with the most recent publicly available FCC Form 477 data prior to any additional offer of support.”¹⁰ Should the FCC proceed with extending a new model offer based on the most recent FCC Form 477 data, it will find that Hamilton would be eligible for considerably more A-CAM support than it was under the initial and revised offers, due to the fact that Wisper removed census blocks from its reported broadband deployment. However, Hamilton notes that the FCC needs to develop a mechanism for it to obtain the additional amount of A-CAM support it will be eligible to receive, given that Hamilton has already elected A-CAM. The Cooperative does not agree with the FCC’s proposal to limit the new model offer to legacy carriers only, because the Cooperative is aware that other A-CAM recipients accepted the A-CAM despite the fact that, as communicated to the FCC, there were problems in the underlying Form 477 data. Hamilton urges the Commission to develop a mechanism for it to receive A-CAM support in the future, if a new offer is released.

Further, the FCC seeks comment on “using additional headroom in the budget to offer the carriers that accepted the revised offer of A-CAM support in 2017 the fully funded amount,

⁹ See *Hamilton County Telephone Co-op A-CAM Challenge*, WC Docket No. 10-90, Notice of *Ex Parte* (filed April 28, 2017). See also *Hamilton County Telephone Co-op*, WC Docket No. 10-90, *Ex Parte* Letter (filed July 6, 2017).

¹⁰ See *USF NPRM* at ¶ 123.

using a per-location funding cap of \$200 per location.”¹¹ Hamilton points out the Commission’s acknowledgement of “additional headroom in the budget” and believes that if the FCC develops a mechanism for the Cooperative to receive the funding sought under this Petition associated with the 2,444 abandoned or unfunded locations, it will not have a negative impact on the overall budget, which the FCC anticipates could be an additional \$66.6 million.¹²

IV. Conclusion

As demonstrated herein, the mission of the FCC in regards to the public interest would be advanced immediately, increasing the \$36.5 million annual amount that it has made available for the ten-year period to once again, include an additional \$2,384,372 per year to fund the 2,444 locations that receive no A-CAM support due to the erroneous, false broadband deployment reporting by a non-competitor. At the very least, in the preliminary stages of developing an ongoing path forward with the A-CAM via additional funding for either increasing the cap to \$200 per-line or opening a new round of A-CAM funding, the FCC should include a mechanism for existing A-CAM companies like Hamilton to receive funding for locations that were previously eliminated. It is extremely clear that the budget can be made to accommodate funding these locations, and the ultimate goal of increasing rural broadband deployment is in the public interest and widely supported. The FCC, Congress and the White House have made numerous overtures in the past year about the importance of rural broadband for the economy, education, healthcare, agriculture, and closing the digital divide. Allowing Hamilton to receive A-CAM support for its abandoned locations is the epitome of “closing the digital divide,” and the FCC should not stand in the way, but instead lead, when it has the obligation and the authority to correct an unfortunate mistake, especially when it is in direct contradiction of public needs. The

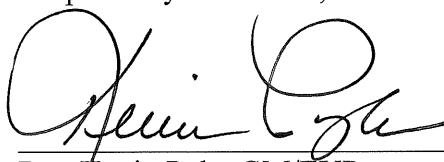
¹¹ See *USF NPRM* at ¶ 142.

¹² See *USF NPRM* at ¶ 143.

FCC should, at the very least, proceed with seeking comment on a mechanism to ensure that Hamilton's locations are funded in future iterations of the A-CAM, or if additional funds are made available, to "fully fund" the A-CAM.

As the Manager of an Average Schedule Cooperative, we are always working to be good stewards of the support provided to serve all of our areas of responsibility, we should leave no pockets of unserved or underserved behind. I hear the cries of the rural daily, the needs for better and faster access to education, commerce and most importantly health and safety, the needs of the "human element". I am compelled in the spirit of our cooperative to continue our mission to serve all of our rural area, which is no different today than when it started in 1953. I ask with all sincerity that you take the necessary and adequate time to properly consider this petition. Our rural communities are truly depending upon the right decision prevailing, as it will be our legacy in to the future.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Kevin Pyle", written over a horizontal line.

By: Kevin Pyle, GM/EVP
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