

**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
	)	

To: The Commission

**COMMENTS OF THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”) shares the Commission’s goals of enhancing the efficacy and efficiency of the Connect America Fund (“CAF”) by considering needed reforms to the process by which the Commission measures competitive overlap for phase-out of universal service support in legacy rate-of-return study areas where support is deemed no longer necessary.<sup>1</sup> A reverse auction mechanism in areas where there is significant, but less than 100%, competitive overlap will better serve consumer needs while more effectively making use of the limited funds available to promote high-quality fixed broadband deployment in high-cost areas.

**Introduction**

WISPA is the trade association representing the interests of fixed wireless communications providers. It has more than 800 members, most of which are wireless Internet service providers

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<sup>1</sup> See *Connect America Fund, et al.*, Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, FCC 18-29 (rel. March 23, 2018) (“*NPRM*”). The *NPRM* was published in the *Federal Register* on April 25, 2018 (83 Fed. Reg. 17968), yielding a comment deadline of today, May 25, 2018.

(“WISPs”) that serve consumers and businesses primarily in rural areas. In many rural areas of the country, WISPs provide the only terrestrial broadband service available because the cost to extend cable, fiber and other wireline services cannot be justified in areas with low population density. Because of the capability of WISPs to provide quality, low-cost access to high speed Internet connectivity, WISPA has been a consistent participant on CAF proceedings advocating for technology-neutral support to promote the offering of new fixed service to unserved and underserved areas of the country, especially rural and insular areas that have lacked access to advanced communications.<sup>2</sup>

WISPA commends the Commission’s inquiry into the process of determining when and how to phase out universal service support for incumbent rate-of-return carriers. In short, it requires reevaluation and reform. As a fundamental principle, the Commission should not be providing market-distorting subsidies to incumbents in areas where there is 100% overlap with an unsubsidized, competitive provider,<sup>3</sup> including situations where multiple unsubsidized providers make up the overlap area.<sup>4</sup> In order to promote the availability of better data concerning overlap areas, however, as well as to enhance the efficient distribution of available universal service support, the Commission should reconsider and modify the mechanisms employed to allocate

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<sup>2</sup> See, e.g., WISPA Comments, Eligibility Requirements and Bidding Procedures for CAF Phase II Auction, AU Docket No. 17-182 and WC Docket No. 10-90 (filed Sept. 18, 2017); WISPA Comments, Performance Tiers for the CAF Phase II Auction, WC Docket Nos. 10-90, 14-58 and 14-259 (filed July 21, 2016); WISPA Comments, Verification Requirements for CAF II Support Recipients, WC Docket No. 10-90 (filed Dec. 22, 2014).

<sup>3</sup> See, e.g., *Connect America Fund Rate-of-Return Reform Order*, 31 FCC Rcd 3087, 3133 (¶ 120) (2016) (“Providing support to a rate-of-return carrier to compete against an unsubsidized provider distorts the marketplace, is not necessary to advance the principles in section 254(b), and is not the best use of our finite resources”).

<sup>4</sup> WISPA notes that the Commission has not acted on WISPA’s 2011 Petition for Partial Reconsideration in WC Docket No. 10-90, where it requested that the Commission replace the term “unsubsidized competitor” with a market-based term such as “area subject to unsubsidized competition,” and thereby allow the voice and broadband components of competitive overlap to be provided by different unsubsidized providers, so that the focus is on the availability of the relevant services and not on the existence of a single entity providing those services.

support before 100% competitive overlap is achieved. A reverse auction procedure in which a broader group of service providers are permitted to compete for funding would improve both the fairness and efficiency of the support allocation program.

### **Discussion**

#### **A. The Commission Should Revise Its Subsidy Approach To Account For Technological Efficiencies.**

The Commission's approach to expanding access to advanced communications in underserved areas should be updated to take into account the full range of technologies that are providing such service. As noted above, in rural areas terrestrial fixed wireless broadband service is often the most cost-effective and easily deployed means of providing high-speed Internet access. This technology benefit was illustrated in a 2017 report published by The Carmel Group finding that fixed wireless technology can be deployed more quickly and at roughly 15% the cost of fiber-to-the-home ("FTTH"), an advantage that is critical for service to sparsely populated areas where the return on investment for FTTH is several years out.<sup>5</sup> Quoting a study prepared by consulting firm Wireless 20/20, RCRWireless reported that "fixed wireless could reduce capital expenditures by more than 50% for many low-density CAF II funded high-cost rural broadband deployments."<sup>6</sup> Regardless of the predominant infrastructure operated by the entity that obtains funding support in these areas, therefore, the most likely means of expeditiously deploying new service to unserved areas will be through fixed wireless point-to-multipoint communications systems.

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<sup>5</sup> See The Carmel Group, *Ready for Takeoff: Broadband Wireless Access Providers Prepare to Soar with Fixed Wireless*, (2017), at 12, Fig. 6, available at [http://www.wispa.org/Portals/37/Docs/Press%20Releases/2017/TCG's\\_2017\\_BWA\\_FINAL\\_REPORT.pdf](http://www.wispa.org/Portals/37/Docs/Press%20Releases/2017/TCG's_2017_BWA_FINAL_REPORT.pdf) (last visited May 25, 2018).

<sup>6</sup> Berge Ayvazian, *Analyst Angle: 4G LTE leveraged for fixed wireless broadband in rural communities*, RCRWIRELESS, June 6, 2017, available at <https://www.rcrwireless.com/20170606/analyst-angle/20170606wireless4g-lte-leveraged-for-fixed-wireless-broadband-in-rural-communities-tag10> (last visited May 25, 2018).

Given these facts, the actual expenditures required to bring new service to consumers lacking broadband capability are declining, as the Commission observes in the *NPRM*.<sup>7</sup> The Commission's approach to both the Alternative Connect America Model ("A-CAM") offer and the legacy rate-of-return mechanism should address this new reality. Put simply, the Commission should not be basing its universal support assumptions on theoretical deployment of FTTH when providers receiving support may be deploying significantly cheaper fixed wireless service. This mismatch in modeling and use of funding can result in overspending in the high-cost fund for reasonably comparable service. As the Commission looks to further address shortfalls in the high-cost fund, revisiting the cost model is necessary.

Accordingly, before the Commission conducts another A-CAM offer, the Commission should revise its existing cost model to take into account the fact that lower-cost wireless infrastructure is the most likely approach providers will use when looking to deploy new rural broadband service. Indeed, many rural operators are already doing so.<sup>8</sup> While WISPA recognizes that a mix of technologies will be necessary to meet the needs of rural communities, the Commission should not assume that FTTH is the highest and best use of federal support.<sup>9</sup> As suggested in the *NPRM*, the Commission should significantly reduce the per-line support limit to account for these changes in technologies and business models.<sup>10</sup>

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<sup>7</sup> See *NPRM* at ¶ 158 (noting the relatively small number of rate-of-return carriers receiving more than \$250 per loop each month).

<sup>8</sup> See, e.g., Comments of Frontier Communications Corporation, Windstream Services, LLC and Consolidated Communications, Inc., GN Docket No. 17-258, at 4-5 (filed Dec. 28, 2017); Charter Communications, Inc. *Ex Parte* Letter, GN Docket No. 17-258, at 2-3 (filed Oct. 18, 2017).

<sup>9</sup> See *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6111 (2016), Statement of Commissioner O'Rielly ("we should buy fewer Lamborghinis and more Chevys").

<sup>10</sup> See *NPRM* at ¶¶ 158-159.

**B. The Commission Should Use Efficient Auctions To Award Market-Based Support Where There Is Competitive Overlap.**

As indicated in the *NPRM*, the existing challenge process for evaluating the degree of competition to rate-of-return carriers has not been successful.<sup>11</sup> There are few incentives for competitors to allocate resources towards a challenge. First, competitors have nothing to gain directly from a demonstration that a study area is fully served by unsubsidized service providers because this process merely results in the beginning of reduced support for service provided by the incumbents with which such companies compete, *i.e.*, the “benefit” is incremental and deferred. More importantly, successfully reducing the support offered to carriers that have been receiving it may produce a net negative effect in the area that a competing carrier seeks to serve by bringing less overall universal service support to the area. A company seen as contributing to the reduction of overall benefits to the community may earn itself negative publicity and loss of consumer good will.

The existing process is also complicated by the fact that the relevant area may have competition everywhere, but as a result of unsubsidized competitive service provided by multiple broadband providers. Making the showing required to challenge existing subsidies is much more difficult when successfully demonstrating the required criteria requires access to reliable information from multiple parties that may not otherwise have an interest in cooperating with each other, or in keeping the detailed business records required to make such a demonstration.<sup>12</sup> For example, such challengers are required to certify that they are offering service to a significant percentage (85%) of the locations within a relevant census block, and to provide evidence sufficient to show the specific geographic area in which they are offering service.<sup>13</sup>

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<sup>11</sup> See *id.* at ¶ 161 (noting “little participation by unsubsidized competitors”).

<sup>12</sup> See *id.* (“An unsubsidized competitor that only partially overlaps an incumbent may not participate in the current process because there is a cost to doing so (e.g., cost of compiling the information and filing)”).

<sup>13</sup> See *Connect America Fund Rate-of-Return Reform Order*, 31 FCC Rcd at 3134 (¶ 122).

Another complicating issue with the current approach is the need for the Commission to engage in detailed fact-finding based on a record established by multiple interested parties. In order to investigate and evaluate sometimes contradictory showings, the Commission must allocate significant administrative resources to engage in line-drawing to make substantive determinations based on sometimes voluminous pleadings and exhibits detailing the scope of geographic coverage.<sup>14</sup>

Moreover, since Section 54.319 was adopted, the Commission has gained access to data sets that are more granular than the established study areas, with the result that it can be more precise in allocating support to areas most in need. In connection with its urban rate survey, the Commission was able to identify at the census block level those areas where support is available for the CAF Phase II reverse auction. The Commission also is considering changes to its Form 477 requirements to mandate more granular reporting concerning broadband deployment.<sup>15</sup>

For all of these reasons, the Commission is correct to examine alternative approaches. As suggested in the *NPRM*, a reverse auction mechanism would provide a market-based approach to better steer finite monetary support to areas most in need, and in a way that maximizes the total impact of funds available.<sup>16</sup> This effect would be made possible by establishing a higher correlation between actual service provider need for funding and the disbursements ultimately made through competitive bidding for the available funds. By introducing competition for financial support, service providers will be required to accept lesser amounts of funding while still assuming the affirmative obligation to provide new or improved service. This, in turn, will allow more projects to receive support for deployment of expanded service. The Commission has already developed

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<sup>14</sup> See *NPRM* at ¶ 161.

<sup>15</sup> See *Modernizing the FCC Form 477 Data Program*, Further Notice of Proposed Rulemaking, WC Docket No. 11-10, 32 FCC Rcd 6329 (2017).

<sup>16</sup> See *NPRM* at ¶ 162.

expertise in constructing such reverse auctions, so a change to the current approach can be implemented quickly and easily.

A reverse auction to award support should be initiated not when all parts of the study area are subject to competitive overlap, but rather in all areas where there is partial competitive overlap exceeding 50% of the relevant study area. This determination can be based on existing data compiled in the FCC's Form 477 broadband reports, as is the current practice. Any area in which a competitive service provider already offers speeds meeting or exceeding the 10/1 Mbps benchmark should be excluded from eligibility for subsidy based on the existing competitive availability of advanced communications capability. The format of the auction should be simple and geared toward awarding funding quickly. WISPA suggests a single-round, sealed-bid auction based on provision of 25/3 Mbps service with latency of 100 ms or less and a data cap of 150 GB or more, to designated areas at reasonably comparable rates within three years of the grant of support.<sup>17</sup>

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<sup>17</sup> See, e.g., *Toll Free Assignment Modernization*, Notice of Proposed Rulemaking, WC Docket No. 17-192, 32 FCC Rcd 7885 (2017) (single round sealed bid auction for vanity numbers).

**Conclusion**

For the foregoing reasons, WISPA urges the Commission to revisit the current approach to awarding CAF support and move away from the current “100% overlap” trigger for phase-out of support for rate-of-return incumbents. Instead, the Commission should adopt a simple reverse auction mechanism that makes support available to a broader range of providers once a lower competitive benchmark is reached, thereby making funding available to a broader range of providers on a more efficient and cost-effective basis.

Respectfully submitted,

**WIRELESS INTERNET SERVICE  
PROVIDERS ASSOCIATION**

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