

June 19, 2018

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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *In re Connect America Fund*, WC Docket No. 10-90, AU Docket No. 17-182

Dear Ms. Dortch:

On June 15, 2018, Andy Burger, General Manager, Co-Mo Connect and the undersigned of Jenner & Block LLP met via telephone with Jay Schwarz of the office of Chairman Pai to discuss the Rural Electric Cooperatives' performance measures proposal for recipients of Connect America Fund ("CAF") support.¹

In the meeting, we encouraged the Federal Communications Commission ("Commission") to adopt the Rural Electric Cooperatives' performances measures proposal, which would encourage compliance with the rules while guarding against waste, fraud, and abuse.² The Rural Electric Cooperatives' proposal of requiring providers to meet 90% of the speed and latency requirement at least 95% of the time is not only fair and equitable but also prevents unjustly enriching providers that fail to satisfy their CAF public interest obligations.³

In addition, we encouraged the Commission to require testing within the CAF recipient's network as providers cannot control or necessarily prevent congestion outside of their network. If the Commission nonetheless requires CAF performance measurements be taken from a customer's premise to an Internet Exchange Point, we urged the Commission to include smaller

¹ See Comments of the Rural Electric Cooperatives, WC Docket No. 10-90 (Dec. 6, 2017) ("Comments"); *Comment Sought on Performance Measures for Connect America High-Cost Universal Service Support Recipients*, Public Notice, 32 FCC Rcd 9321 (2017); see also Letter from Rebekah Goodheart, Jenner & Block, LLP, to Marlene Dortch, Secretary, FCC, WC Docket No. 10-90 (Mar. 13, 2018).

² See generally Comments.

³ See Comments at 9-15. Under our proposed performance measures, 2.0% of a provider's CAF funds will be withheld for every percentage point below 90% that the provider fails to deliver for 95% of the measurement. See Comments at 12-15.

Internet Exchange Points in cities such as Kansas City, Missouri. Requiring smaller providers in rural areas to unnecessarily route traffic to the largest Internet Exchange Points for CAF testing purposes will significantly increase compliance burdens and costs.

Finally, we urged the Commission to adopt its original proposal and require speed testing during peak times between 7:00pm and 11:00pm.⁴ Testing during peak times is important because the Commission must ensure that the providers meet their performance requirements when consumers are actually using the service. A service that functions only when consumers are not using it is of little value to consumers or the communities in which they live.

Please contact the undersigned if you have any questions.

Sincerely,

/s/ Rebekah P. Goodheart

Rebekah P. Goodheart
*Counsel for the Association of Missouri
Electric Cooperatives, Midwest Energy &
Communications, HomeWorks, Alger Delta
& Great Lakes Energy, and Arkansas
Electric Cooperatives, Inc.*

cc: Jay Schwarz

⁴ See Comments at 1-2 & n.4 (citing *Wireline Competition Bureau et al. Seek Comment on Proposed Methodology for Connect America High-Cost Universal Service Support Recipients to Measure & Report Speed & Latency Performance to Fixed Locations*, Public Notice, 29 FCC Rcd 12,623, 12,625 ¶ 9 (2014)).