

**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 Inter-carrier Compensation Regime)	CC Docket No. 01-92
)	

**REPLY COMMENTS OF
GVNW CONSULTING, INC.
ON BEHALF OF ILLINOIS RURAL LOCAL EXCHANGE CARRIERS**

June 25, 2018

Table of Contents

Executive Summary

I.	There is No Need to Fundamentally Alter the 100 Percent Overlap Process.....	2
	A. Changing the Competitive Overlap Rules Would Discourage Broadband Investment.....	2
	B. Changing the Competitive Overlap Rules per the Commission’s <i>NPRM</i> Could Harm the Rural Consumers Currently Served by the <i>Illinois RLECs</i>..	3
	C. The Commission’s Speculation as to the Reason for Non-Participation in the 100 Percent Overlap Process by Potential Unsubsidized Voice and Broadband Competitors is Not Borne Out by the Facts.....	4
	D. The Carefully Balanced Policy Construct of the 2016 Order Should Not be Disturbed to Find a Solution for a Non-Existent Problem.....	9
II.	The Suggested Auction Mechanism is Contrary to the Commission’s Own Public Policy with Respect to High-Cost Universal Service Support to Competitive Areas.....	9
III.	There is No Reason to Believe that an Auction Process Would be Less Burdensome than the Current Overlap Processes.....	13
IV.	Conclusion.....	14

Executive Summary

The Commission should reject the suggestion in the NPRM to replace the current competitive overlap processes with a reverse auction mechanism. There is no need to fundamentally alter the 100 percent overlap process. It could be improved by either ensuring accuracy of the Form 477 used as a trigger or preferably by having the process triggered by a substantiated assertion and associated data submission from a purported unsubsidized competitor.

Changing the competitive overlap rules per the Commission's proposal at this juncture will discourage investment in future-proof fiber facilities by the *Illinois RLECs*. The Commission is wisely addressing problematic areas in the current rules that create uncertainty about future levels of support and discourage investment – there is no need to then create new uncertainty by unnecessarily changing the competitive overlap process.

The Commission must take great care in administering the competitive overlap process, as it has the potential to result in the loss of support to the RLEC to the detriment of rural voice and broadband consumers. RLECs have carrier of last resort (COLR) responsibilities and a lengthy history of reliably meeting performance standards and crucially important public safety obligations.

The Commission's speculation that having more than one overlapping unsubsidized voice and broadband competitor necessitating coordination is so burdensome that it causes an absence of incentives to participate in the 100 percent overlap proceeding is unsupported. The mere fact that two or more competitors may need to collaborate to make a showing of 100 percent overlap should not outweigh the benefit to such competitors of potentially eliminating USF support to an incumbent RLEC that is their competitor. A logical reason for the non-participation of purported unsubsidized competitors is that the coverage asserted in the Form 477 filings cannot be supported by objective evidence. Development and submission of that evidence is not difficult.

The Commission already has in its rules an additional and more granular approach to competitive overlap. Implementation of the more granular process, like the 100 percent overlap process, is triggered by a Public Notice based on FCC Form 477 data. The *Illinois RLECs* believe that both competitive overlap processes should actually *be triggered* by a substantiated assertion and associated data submission initiated and supported by an entity asserting overlap with unsubsidized voice and broadband service meeting the Commission's requirements, not by FCC Form 477 data which has proven to be inaccurate. The FCC Form 477 trigger has forced the wasteful expenditure of time and money by the Commission and RLECs.

The Commission has established a public policy goal to make the most effective use of scarce high-cost universal service funds. It has established processes to ensure that no support is provided in areas in which a competitor has established that it can provide voice and broadband service, without support, that meets the Commission's standards. Yet it proposes to contradict that public policy goal by providing funds via auction at the study area level – thereby funding areas that have competitive overlap.

The suggestion that reverse auctions be used for the even harder-to-determine overlap exceeding only 50 percent of the relevant study area are an admission that purported unsubsidized competitors are incapable of serving a majority of the customers in a study area and are thereby proving that substantial competitive presence does not exist. Furthermore, the Commission well knows that 50 percent of the customers in a rural study area are generally located in much less than 50 percent of the geography of that study area.

The Commission evidences concern about the “challenging” nature of the current proceeding on Commission staff, yet it fails to address the potential burdens on the Commission of designing and implementing an auction process. An auction is not likely to require less Commission evidentiary review or fewer administrative resources, or to be more efficient or effective, than the present Section 54.319 challenge processes.

**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
)	

**REPLY COMMENTS OF
GVNW CONSULTING, INC.
ON BEHALF OF ILLINOIS RURAL LOCAL EXCHANGE CARRIERS**

GVNW Consulting Inc. (“GVNW”)¹ respectfully submits these reply comments on behalf of *Illinois Rural Local Exchange Carriers* (“*Illinois RLECs*”)² in the above captioned proceeding. The Notice of Proposed Rulemaking (“*NPRM*”)³ reviews the adequacy of the

¹GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

²The *Illinois RLECs* are Harrisonville Telephone Company, Waterloo, Illinois; Madison Telephone Company, Staunton, Illinois; Egyptian Telephone Cooperative Association, Steeleville, Illinois; Gridley Telephone, Gridley, Illinois; Home Telephone Co., Saint Jacob, Illinois; Grafton Telephone Co., Grafton, Illinois; and Alhambra-Grantfork Telephone Company, Alhambra, Illinois. The Illinois Independent Telephone Association, also known as the Illinois Rural Broadband Association, endorses these reply comments.

³ *Connect America Fund, et al.*, WC Docket No. 10-90 *et al.*, Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking (rel. March 23, 2018) (“*NPRM.*”)

Connect America Fund (CAF) support available for rate-of-return (RoR) carriers, explores various issues with respect to existing and potential A-CAM carriers, proposes a threshold level of support not subject to the budget control mechanism for legacy carriers along with their deployment obligations, and proposes other reforms -- including changing the 100 percent overlap process. The *Illinois RLECs* will focus their reply comments on the changes proposed in the NPRM to the overlap process.⁴

I. There is No Need to Fundamentally Alter the 100 Percent Overlap Process

There is no need to fundamentally alter the 100 percent overlap process. It could be improved by either ensuring accuracy of data included in the Form 477 used as a trigger or preferably by having the process triggered by a substantiated assertion and associated data submission from a purported unsubsidized competitor.

NTCA agrees “The Commission should likewise decline to modify the process for determining whether a purported unsubsidized competitor overlaps a RLEC high-cost universal service support recipient in 100 percent of the rural study area.”⁵ The Blooston Rural Carriers also agree that the current 100 percent overlap process should not be changed.⁶

A. Changing the Competitive Overlap Rules Would Discourage Broadband Investment

Changing the competitive overlap rules per the Commission’s proposal at this juncture will discourage investment in future-proof fiber facilities by the *Illinois RLECs*. The Commission is wisely addressing problematic areas in the current rules that create uncertainty about future levels of support and discourage investment – there is no need to then create new uncertainty by

⁴*Id* at ¶¶ 160 through 163.

⁵*See* NTCA Comments at 57.

⁶*See* Blooston Rural Carriers Comments at 16.

unnecessarily changing the competitive overlap process. With reference to the Commission's proposal to use a reverse auction or any other type of auction as an alternative either to the existing 100 percent overlap challenge process or to the census block challenge process, WTA correctly notes that "There is probably no more effective way than a "winner-take-all" auction process to ensure that most broadband investment, deployment and upgrades will come to a near or complete halt in study areas for which such auctions are likely to be conducted."⁷

B. Changing the Competitive Overlap Rules Per the Commission's *NPRM* Could Harm the Rural Consumers Currently Served by the *Illinois RLECs*

The Commission must take great care in administering the competitive overlap process, as it has the potential to result in the loss of support to the RLEC to the detriment of rural voice and broadband consumers. RLECs have carrier of last resort (COLR) responsibilities and a lengthy history of reliably meeting performance standards and crucially important public safety obligations. RLECs have a proven track record of technical, financial, and managerial expertise that are necessary to meet the challenge of providing voice and broadband services to rural America. However, a finding of unsubsidized competition relies on a one-time analysis of information submitted, some of questionable veracity, at a snapshot in time. It risks ignoring subsequent deterioration by the identified purported unsubsidized competitor in service, increases in rates, or even market exit to the detriment of those consumers who already previously lost the benefits of access to the network supported by necessary universal service support. RLECs historically have complied with all consumer protection, public interest, and public safety obligations expected of a universal service support recipient.

⁷See WTA Comments at 40.

In its comments in the instant proceeding, WTA addresses the potential risks inherent in replacing an RLEC with a “competitive” voice and broadband provider. WTA states that “...it does not make sense, and is not beneficial to customers, if an entity that claims to be providing a “competitive” voice and broadband service capable of supplanting an RLEC in a certain area (so that the RLEC’s high-cost support can be reduced or eliminated) cannot serve all of the households served by the RLEC in that area, employs a technology that is more susceptible than the RLEC’s network to frequent disruption by weather and foliage conditions, is more subject than the RLEC to congestion and service quality degradation on certain routes during peak usage periods, and cannot readily scale up its network like the RLEC in order to satisfy consumer demand for increased broadband speeds. In sum, the critical consideration that must be kept in mind with respect to any unsubsidized competitor challenge process is not current budget issues, but rather the nature and quality of the broadband service that will remain available to the affected customers in both the short term and the long term.”⁸

C. The Commission’s Speculation as to the Reason for Non-Participation in the 100 Percent Overlap Process by Potential Unsubsidized Voice and Broadband Competitors is Not Borne Out by the Facts

The Commission’s speculation that having more than one overlapping unsubsidized voice and broadband competitor necessitating coordination is so burdensome that it causes an absence of incentives to participate in the 100 percent overlap proceeding is unsupported. The mere fact that two or more competitors may need to collaborate to make a showing of 100 percent overlap should not outweigh the benefit to such competitors of potentially eliminating USF support to an incumbent RLEC that is their competitor. NTCA states that “Contrary to the suggestion in the NPRM, there is no basis to believe that purported unsubsidized competitors lack incentive to

⁸*Id* at 35.

participate in the process – rather, it could just as easily be said (and is more likely the case) that any lack of participation is due to an inability to demonstrate true competitive presence and the ability to back up census block-based assertions made in Form 477 filings.”⁹ NTCA also notes that “A carrier fully confident of actual competitive presence and in possession of the evidence to back up 477 assertions has every incentive to work with other known providers in the area to make the required showing.”¹⁰

WTA expands on the reason for the lack of participation by purported unsubsidized competitors “WTA does not believe that the Commission’s perceived “lack of participation” by unsubsidized competitors in fact reflects an “absence of incentives to participate” in the 100 percent overlap challenge process (*NPRM*, par. 161).”¹¹ Instead, WTA explains that cable operators generally serve towns and “make little or no effort to extend their network and services into the more sparsely populated outlying countryside that would enable them to serve 100 percent of most RLEC study areas.”¹² WTA goes on to address rural service offered by providers using fixed wireless technology “This inability to determine the availability of their service at various locations not only explains why WISPs may have elected not to participate in 100 percent overlap challenges, but also constitutes a substantial reason why WISPs cannot replace or displace RLECs in many rural areas without a substantial risk of loss or degradation of existing and future services for significant numbers of existing customers.”¹³

A logical reason for the non-participation of purported unsubsidized competitors is that the coverage asserted in the Form 477 filings cannot be supported by objective evidence.

⁹See NTCA Comments at 57.

¹⁰*Id.* at 58.

¹¹See WTA Comments at 37.

¹²*Id.*

¹³*Id.* at 38.

Development and submission of that evidence is not difficult. As noted by NTCA “As an initial matter, the process applicable to purported unsubsidized competitors claiming to serve 100 percent of a RLEC study area cannot truly be described as burdensome. Indeed, that process is built mostly around the purported unsubsidized competitor stepping forward to provide evidence that what it already said in a prior filing with this Commission is accurate. One would expect such data to be readily available – evidence of where a company’s network assets are deployed and where it can provide service to end-users meeting certain performance characteristics.”¹⁴

The NPRM also ignores the fact, objectively proven by the Commission itself in its two 100 percent overlap proceedings, that the trigger for the 100 percent overlap process – the information available from the 477 Forms filed by competitors, particularly fixed wireless competitors – is inaccurate, thereby unnecessarily initiating overlap proceedings where no overlap exists. The Commission should examine the Form 477 filings in 2015 and 2017 to determine the reason or reasons for the inaccurate submissions and address that problem. It should utilize all the tools at its disposal, including enforcement, to ensure that proceedings that are unnecessary and burdensome to both the Commission and the RLECs forced to respond are not triggered by inaccurate FCC 477 Forms.

NTCA agrees with the importance of accurate Form 477 filings by purported unsubsidized competitors “Given that these providers presumably have the evidence on hand to assess and report on Form 477 in the first instance where service can and cannot be provided, any failure to post in the 100 percent competitive overlap process is more likely driven by an inability to make the required showing, and thus these providers rightly decline to step forward

¹⁴See NTCA Comments at 57.

and certify under penalty of perjury as to competitive presence they know does not exist.”¹⁵

NTCA summarizes the issue as follows “Ultimately, the lack of participation referenced in the NPRM is perhaps less of an indication that purported unsubsidized competitors lack incentives to participate than it is a function of a broken Form 477 that fails to capture accurate and granular data necessary to achieve the purposes for which the Commission utilizes the data gathered.”¹⁶

The Wireless Internet Service Providers Association (WISPA) argues that the existing challenge process has not been successful.¹⁷ The *Illinois RLECs* contend that the fact that the 100 percent overlap process has been run twice and found only one instance of such overlap does not make the process unsuccessful. It merely proves the assumption of widespread overlap to be incorrect.

WISPA’s arguments as to the lack of participation by its members in the competitive overlap process are creative but not persuasive. WISPA asserts that its members are reluctant to deny the incumbent its USF support because “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.”¹⁸ Yet WISPA ignores the inaccurate 477 Forms in which some of its members show greater overlap than actually exists, leading to the unnecessary and wasteful “unsuccessful” 100 percent overlap process for incumbents receiving USF support that WISPA bemoans. Presumably asserting 100 percent overlap but not actually proving it does not lead to “negative publicity and loss of consumer goodwill.” Moreover, by stating their belief that removing the incumbent’s USF support would be seen as contributing to the reduction of benefits to a

¹⁵*Id* at 57-58.

¹⁶*Id* at 58.

¹⁷*See* WISPA Comments at 5.

¹⁸*Id.*

community, WISPA’s members reveal a lack of confidence in their ability to provide advanced voice and broadband services to their customers at reasonable and comparable rates, while conceding that customers do not view their service offerings as a reliable and economical substitute for the advanced services provided by the incumbent RLECs.

WISPA also complains that making the required overlap showing may require 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.”¹⁹ This argument can be broken down into two parts – the difficulty of accessing “reliable information” or “detailed business records” and the difficulty of having multiple parties cooperate. With respect to “reliable information,” voice and broadband providers are supposed to file such information with the Commission in their Form 477 submissions. Is WISPA suggesting that such submissions by its members are unreliable? We must also assume that “detailed business records” refers to knowledge of the area in which the WISP can provide service. It strains credulity that a provider cannot accurately determine its service area. Finally, cooperation with multiple unsubsidized providers is not usually necessary. As noted by the *Illinois RLECs* in their comments, the vast majority of the areas raised in the 100 percent overlap proceedings had only one or two providers.²⁰

¹⁹*Id.*

²⁰*See Comments of Illinois RLECs* at 7-8. In 2015, 13 of the 15 study areas identified as having 100 percent overlap had only one or two unsubsidized competitors identified by the Commission. In the 2017 100 percent overlap proceeding, seven of the study areas identified by the Commission were repeats from the 2015 proceeding, allowing the unsubsidized competitors two years to develop “reliable information” and develop cooperative relationships with other purported unsubsidized competitors.

WISPA evidences its concern about the need for the Commission to engage in detailed fact-finding.²¹ First, if Form 477 information submitted by fixed wireless providers was more accurate, many of the 100 percent overlap proceedings would not be conducted at all, reducing the Commission's workload. Second, when addressing an issue of such importance to consumers and RLECs as the potential loss of high-cost universal service support, it is not unreasonable to have the Commission carefully examine facts and data to make the correct determination.

D. The Carefully Balanced Policy Construct of the 2016 Order Should Not be Disturbed to Find a Solution for a Non-Existent Problem

The Commission already has in its rules an additional and more granular approach to competitive overlap.²² Implementation of the more granular process, like the 100 percent overlap process, is triggered by a Public Notice based on FCC Form 477 data. The *Illinois RLECs* believe that both competitive overlap processes should actually *be triggered* by a substantiated assertion and associated data submission initiated and supported by an entity asserting overlap with unsubsidized voice and broadband service meeting the Commission's requirements, not by FCC Form 477 data which has proven to be inaccurate. The FCC Form 477 trigger has forced the wasteful expenditure of time and money by the Commission and RLECs.

II. The Suggested Auction Mechanism is Contrary to the Commission's Own Public Policy with Respect to High-Cost Universal Service Support to Competitive Areas

The Commission has established a public policy goal to make the most effective use of scarce high-cost universal service funds by establishing processes to ensure that no support is

²¹See WISPA Comments at 6.

²²See *Connect America Fund* (WC Docket No. 10-90), *ETC Annual Reports and Certifications* (WC Docket No. 14-58) and *Developing a Unified Intercarrier Compensation Regime* (CC Docket No. 01-92) *Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking*, (rel. March 30, 2016), (“*Rate of Return Reform Order*”) ¶¶ 116- 145.

provided in areas in which a competitor has established that it can provide, without support, voice and broadband service that meets the Commission’s standards. Yet it proposes to contradict that public policy goal by providing funds via auction at the study area level – thereby funding areas which have competitive overlap.²³ ITTA and WTA agree that the Commission should not adopt the NPRM’s proposal to use an auction mechanism to award support in areas in which significant competitive overlap is deemed to be present.²⁴ WTA notes “Moreover, the concept of an auction is wholly inimical to the purposes of the 100 percent overlap and census block challenge processes of Section 54.319 – specifically, to eliminate the need for any future high-cost support in areas where unsubsidized competitors provide equivalent broadband services to local customers. If an unsubsidized competitor demonstrates that it provides or can immediately provide equivalent service to 100% of the locations in an RLEC study area or to 85% of the locations in a census block, the logic of Section 54.319 is that no one should get high-cost support for serving the subject area in the future – not that entities should “compete” for lesser amounts of high-cost support for the area in the future. Put another way, if an unsubsidized competitor “wins” the contemplated auction for a particular RLEC study area and the defeated RLEC is able to remain in business for at least a while, is not the RLEC then an “unsubsidized competitor” that makes it unnecessary to provide high-cost support to the “winner” of the reverse auction?”²⁵ NTCA summarizes the issue as follows “The entire point of the competitive overlap process is to ensure that support does not flow to areas where overlap exists and thus is theoretically unnecessary for the provision of service meeting certain standards. It is difficult to understand why the process would now morph into one

²³See *NPRM* at ¶ 163.

²⁴See ITTA Comments at 33 and WTA Comments at 42.

²⁵See WTA Comments at 41.

to potentially *award* support to a new provider based upon that provider's claim that it is already operating there on an *unsubsidized* basis.²⁶

WISPA endorses a reverse auction mechanism in competitive overlap situations but never explains how it would reconcile such a mechanism with the fundamental point made by NTCA and others²⁷ that reverse auctions would “*award* support to a new provider based upon that provider's claim that it is already operating there on an *unsubsidized* basis.”²⁸

To make matters worse, WISPA suggests that the reverse auctions, for the even harder-to-determine overlap exceeding only 50 percent of the relevant study area, be based on the Form 477 which is notoriously inaccurate with respect to WISPs. This proposal by WISPA is telling. In suggesting that the FCC lower the bar for overlap to 50 percent, WISPA's members are admitting that they are incapable of serving a majority of the customers in a study area and are thereby proving that substantial competitive presence does not exist. Furthermore, the Commission well knows that 50 percent or more of the customers in a rural study area are generally located in much less than 50 percent of the geography of that study area.

It is ironic that NCTA embraces the proposed auction mechanism to replace the 100 percent overlap process. The current process, which NCTA characterizes as “cumbersome,”²⁹ was actually based upon an NCTA proposal to reduce or eliminate high-cost support in areas served by extensive, unsubsidized facilities-based competitors where government subsidies are no longer

²⁶See NTCA Comments at 59.

²⁷See Comments of *Illinois RLECs* at 9 “Paradoxically, adoption of the NPRM's auction proposal would result in 100 percent competitive overlap by the RLEC on the first day after the auction funds were awarded to the competitor.”

²⁸See NTCA Comments at 59 and WTA Comments at 41.

²⁹See NCTA Comments at 4.

needed to ensure that service is available to consumers.³⁰ It must be admitted however, that unlike the process the Commission eventually adopted, NCTA's proposal was applied solely to situations in which there was a *wireline* competitor present and was not triggered by information gleaned from 477 Forms, and, so in that sense, the current process *is* more cumbersome than that initially proposed by NCTA. Curiously, NCTA defends the use of Form 477 data instead of a challenge process when its proposal detailed above suggested a challenge process as a trigger for an overlap process and when the Form 477 data has been objectively proven to be inaccurate.³¹

NCTA offers a non-sequitur in support of changing the current 100 percent overlap process "As the Commission observes, the overlap approach has garnered limited participation by non-incumbents serving rate-of-return study areas. As a result, rate-of-return carriers are continuing to receive support in areas that are significantly served by other providers that receive no high-cost support."³² The non-sequitur is, of course, that the limited participation by non-incumbents is precisely because they *do not* "significantly serve" areas in which rate-of-return carriers receive support.

NCTA includes a somewhat puzzling proposal in its comments "If the Commission decides to increase the amount of support distributed in order to accelerate efforts to bring broadband to unserved areas, it should distribute that support only through mechanisms that rely on competitive bidding."³³ The Commission makes several proposals to increase support, but competitive bidding

³⁰See National Cable & Telecommunications Association (NCTA) Petition for Rulemaking, Reducing Universal Service Support in Geographic Areas That Are Experiencing Unsupported Facilities-Based Competition (RM-11584) (submitted Nov. 5, 2009).

³¹See NCTA Comments at 5 "The use of Form 477 data provides a far more efficient and reliable measure of broadband penetration than the previous reliance on a "time-consuming and administratively burdensome challenge process."

³²See NCTA Comments at 4.

³³*Id* at 3.

makes no sense for any of the mechanisms for which increased support is proposed. For example, the Commission proposes to fund A-CAM electors up to \$200 per location from the current \$146.10. How would NCTA implement competitive bidding for A-CAM electors if the per location amount of support was increased? A-CAM companies have made an agreement with the Commission, akin to a contract, to meet certain performance standards and deployment milestones in exchange for a fixed amount of support over a ten-year period. Similarly, legacy rate-of-return companies have agreed to meet certain performance standards and deployment milestones in exchange for universal service high-cost support. The mere fact that the Commission is considering addressing the inadequacy of its initial determination of legacy support does not change the reliance of the rate-of-return company recipients on the promise of support over a ten-year period. NCTA offers neither a rationale for nor a way to operationalize its proposal to insert competitive bidding into the ongoing A-CAM and rate-of-return support processes.

Finally, NCTA suggests that “...the Commission should establish an auction process to allow non-incumbent providers to compete with incumbent LECs to provide broadband in rural areas and should take steps to target support only to areas where it is needed.”³⁴ First, this proposal is an out of time petition for reconsideration of the Commission’s 2011 Order. Second, the Commission *did* take steps to target support only to areas where it is needed – with respect to rate-of-return carriers, it adopted both a 100 percent overlap process and a more granular overlap process to eliminate support in areas served by an unsubsidized voice and broadband competitor.

III. There is No Reason to Believe that an Auction Process Would be Less Burdensome than the Current Overlap Processes

The Commission evidences concern about the “challenging” nature of the current proceeding on Commission staff, yet it fails to address the potential burdens on the Commission

³⁴*Id* at 1.

of designing and implementing an auction process. According to ADTRAN, “While the use of a reverse auction mechanism theoretically might reduce the required subsidy amounts, any such potential gains would need to be balanced against the delays, costs and complexity of designing and running an auction (as well as the costs imposed on the auction participants). Moreover, it is not clear how competitive any such reverse auction might be, considering that the rate of return CAF program at issue here addresses “drips and drabs” of locations scattered throughout the rate of return carriers’ territories.”³⁵

WTA correctly asserts that “an auction is not likely to require less Commission evidentiary review or fewer administrative resources, or to be more efficient or effective, than the present Section 54.319 challenge processes. For example, current FCC Form 477 data indicate only that the filer offers service to at least one location in a census block but provides no indication of the total number and percentage of locations that are served or that can readily be served by the filer in a particular study area or census block. Whether it adopts a 70% or 85% or 90% or 100% threshold for determining the portion of a study area that must be overlapped by an alleged unsubsidized competitor in order to trigger an auction, the Commission will need to require and evaluate evidence regarding the number and percentage of locations served by the alleged “competitor” as well as its legal, technical and financial qualifications.”³⁶

IV. Conclusion

As stated by NTCA “...the proposal to modify the 100 percent competitive overlap rules are solutions in search of problems.”³⁷ Continuation of the current process was supported by NTCA, ITTA, WTA, ADTRAN, Blooston Rural Carriers and the *Illinois RLECs*.

³⁵See ADTRAN Comments at 6.

³⁶See WTA Comments at 41-42.

³⁷See NTCA Comments at 59.

Of the commenters addressing the competitive overlap process, only two, NCTA and WISPA, supported the proposal in the *NPRM* to replace the current processes with reverse auctions. Neither offered a compelling reason for the lack of participation by purported unsubsidized competitors, a rationale for replacing the current overlap processes or ways to operationalize auctions.

The Commission should reject the proposal to replace the current processes to determine competitive overlap with reverse auctions. It should either improve the accuracy of Form 477 data or abandon the Form 477 as a trigger for competitive overlap proceedings and simply rely on a substantiated assertion and associated data submission from the purported unsubsidized voice and broadband provider(s).

/s/ David B. Cohen

David B. Cohen, Esq.
Senior Policy Advisor

/s/ Jeffry H. Smith

Jeffry H. Smith
President/CEO

GVNW Consulting, Inc.
8050 SW Warm Springs Street, Suite 200
Tualatin, Oregon 97062
202-236-3947

June 25, 2018