**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 Certification ) WC Docket No. 14-58

)

Establishing Just and Reasonable ) WC Docket No. 07-135

Rates for Local Exchange Carriers )

)

Developing a Unified Intercarrier ) CC Docket No. 01-92

Compensation Regime )

**REPLY COMMENTS OF THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Pennsylvania Public Utility Commission (Pa. PUC) hereby submits this reply comment in response to the Federal Communication Commission’s (FCC or Commission) *Notice of Proposed Rulemaking*[[1]](#footnote-1) released March 23, 2018, in the above-captioned proceeding, inviting parties to comment on revising the high-cost budget for rate of return (ROR) carriers, extending a new offer of model-based support, fully funding carriers that have already accepted Alternative-Connect America Cost Model (A-CAM) support, and changing the budget control mechanism, among other things. The FCC published the *NPRM* in the *Federal* *Register* on April 25, 2018.[[2]](#footnote-2) The *NPRM* seeks commentson further reforms to establish a budget that will allow for robust broadband deployment in areas served by ROR carriers while minimizing the burden that contributions to the federal Universal Service Fund (USF) place on ratepayers. Pursuant to the schedule set forth in the *Federal Register* initial comments were due on or before May 25, 2018, and reply comments are due on or before June 25, 2018.[[3]](#footnote-3)

The Pa. PUC appreciates the opportunity to file this reply comment. As an initial matter, the Pa. PUC’s reply comment should not be construed as binding on the Pa. PUC in any proceeding before the Pa. PUC. The proposals contained in this reply comment may change in response to subsequent events. This includes developments at the federal or state level, including the filing of ex parte pleadings.

**Summary and Recommendation**

In the above-captioned proceeding, the Commission requests comment on further reforms to establish a budget that will allow for robust broadband deployment in areas served by ROR carriers while minimizing the burden that contributions to the federal USF place on ratepayers. The Pa. PUC supports the Commission’s decision to review the high-cost support budget for ROR carriers that has remained unchanged since fiscal year 2011, particularly given the FCC’s and the states’ long-term recognition that the costs to serve rural areas are significantly higher than the costs to serve urban areas.[[4]](#footnote-4)

The Pa. PUC asserts that the Commission should establish a multi-year budget that is adequately sized and appropriately funded to accomplish the federal USF goal of eliminating the urban-rural divide of broadband access availability and rate comparability and ensure compliance with the Section 254 mandate that there be comparable rates for comparable services in urban and rural America. Thus, the Pa. PUC supports the Commission’s proposals to set a new initial overall budget for ROR carriers within the high-cost program by accounting for the effects of inflation on the budget and then continuing to increase the overall budget annually by accounting for inflation. Also, the Pa. PUC supports fully funding the model-based support for ROR carriers at the original $200 per location offer as well as fully funding the cost-based high-cost support mechanisms for legacy high-cost support recipients in order to provide stability and predictability to that support as well as stimulate and sustain broadband deployment in rural areas.

**Discussion**

1. **The Commission should increase the ROR carrier support budget in the 2018 budget year to reflect inflation since 2011 when the budget was established and annually increase the budget for inflation going forward.**

The Commission specifically proposes revising the budget for ROR carriers within the high-cost program and adopting an inflation factor to help support the new budget. The FCC acknowledges that had it accounted for inflation since 2011, the ROR carrier support budget would have increased from $2 billion in the 2012 budget year to $2.193 billion in the 2018 budget year.[[5]](#footnote-5)

The Pa. PUC agrees with those comments that urge the Commission to adopt this proposal to increase the overall ROR carrier CAF budget to $2.193 billion, which accounts for inflation from when the budget was established in 2011, and to also continue increasing the budget annually thereafter based on inflation.[[6]](#footnote-6) Thus, the Commission should include an inflationary factor in the overall high cost budget construct going forward. The Pa. PUC recognizes that such an approach may, in turn, necessitate a through examination and consideration of the current funding processes.

1. **The Commission should fully fund the A-CAM carrier CAF support budget at $200 per location.**

Next, the Commission seeks comment on whether it should fully fund existing A-CAM carriers by offering them support in the amount of a $200 per-location funding cap, and what additional deployment commitments may be appropriate. Consistent with the Pa. PUC’s position that funding support should not produce a zero-sum result between carriers, the Pa. PUC agrees with those comments advocating for fully funding the A-CAM carrier CAF support budget.[[7]](#footnote-7)

The Pa. PUC asserts that increasing the ROR carrier CAF support budget to account for inflation will rectify the budget shortfall from prior periods and is a good first step. However, in order to stimulate and sustain accelerated broadband deployment, the Pa. PUC also recommends that the Commission fully fund the A-CAM carrier budget at the original monthly funding cap of $200 per location. The funding challenges that gave rise to the $200 cap per location approach has not been obviated simply because the limits of funding necessitated departing from the $200 per location approach. The Pa. PUC notes that the Commission has offered additional support up to $146.10 per location to all carriers that had accepted the previously revised offers of model-based support.[[8]](#footnote-8) The Commission acknowledged this step would provide economic, educational, and healthcare benefits to rural consumers.

Consistent with the previous request from two Pa. PUC Commissioners, the Commission should fully fund the A-CAM carrier budget and offer those existing A-CAM electors that received a revised offer of A-CAM support the original $200 per location monthly funding cap amount. The Pa. PUC notes that, since an RoR carrier’s initial acceptance of the A-CAM offer and the corresponding mandatory deployment obligations were based upon the original $200 per location, these same carriers already had prepared plans to roll-out broadband offerings throughout their service territory in order to meet their deployment milestones. Thus, by returning the funding cap to its original $200 per location, the Commission is simply reinstating the A-CAM elector’s initial deployment milestones, which should bring and sustain broadband access and availability to more rural consumers. And, the Pa. PUC believes that a reinstatement of this $200 per location funding should not trigger or produce a zero-sum result for other recipient providers to implement this $200 per location restoration.

1. **The Commission should adopt a budget that establishes adequate funding for both A-CAM providers and legacy ROR carriers.**

Furthermore, the Pa. PUC agrees with those comments advocating that the Commission should adopt a budget for ROR carriers that would fully fund the original A-CAM budget for all existing A-CAM providers and also fully fund the requisite support for legacy ROR carriers.[[9]](#footnote-9) This result assures all carriers that funding for one class of providers does not result in reductions in support for other classes of providers.

The Pa. PUC asserts that the Commission must adequately fund the legacy mechanisms so there is no reduction due to the budget control mechanism. The Pa. PUC also asserts that the Commission should treat both model-based and

cost-based ROR carrier support recipients equitably and reasonably comparably in its distribution of high-cost support. The best way to do this is to fund the carriers sufficiently such that no class of carrier secures support at the expense of another class of carriers.

The Commission’s current practice of retroactively addressing and funding budget shortfalls is not a viable long-term solution. Thus, the Pa. PUC supports increasing the overall ROR carrier support budget so that the Commission can fully-fund high cost USF support for the legacy cost-based support recipients.

The Commission also seeks comment on whether to offer A-CAM support to all legacy ROR carriers—not just those for whom the offer of model-based support is less than the legacy support they received. The Commission questions whether an expansion would help spur additional broadband deployment in rural areas.[[10]](#footnote-10) The Pa. PUC is not opposed to this proposal for a new A-CAM offer extended to legacy ROR carriers willing to accept lower support amounts as it may create additional headroom for those remaining on cost-based mechanisms.

**Conclusion**

The Pa. PUC recommends that the Commission: (1) immediately revise the overall ROR budget to set a new initial budget of $2.193 billion, accounting for inflation since 2011, and annually increase the ROR budget for inflation going forward; (2) reinstate support up to $200/month per eligible location to existing

A-CAM plan participants; and (3) fully fund the legacy mechanism; and (4) avoid funding solutions in which one class of carriers receive needed support at the expense of another class of carriers also in need of support to maintain traditional networks and support the deployment of broadband.

The Pa. PUC appreciates the opportunity to submit these reply comments and asks that the Commission give them due consideration.

Respectfully submitted,

Pennsylvania Public Utility Commission

/s/ David E. Screven

David E. Screven, Esquire

Assistant Counsel

Pennsylvania Public Utility Commission

Commonwealth Keystone Building

400 North Street

Harrisburg, PA 17120

(717) 787-2126

Email: [dscreven@pa.gov](mailto:dscreven@pa.gov)

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1. *See In the Matter of Connect America Fund, ETC Annual Reports and Certifications, Establishing Just and Reasonable Rate for Local Exchange Carriers, Developing a Unified Intercarrier Compensation Regime*, WC Docket Nos. 10-90, 14-58 07-135 and CC Docket No. 01-92, Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, FCC 18-29 (Mar. 23, 2018) (*“NPRM”*). [↑](#footnote-ref-1)
2. 83 FR 17968 [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. *See e.g.,* *In re: National Broadband Plan for our Future,* Docket No. 09-51, FCC Staff Presentation (September 29, 2009), slide #44. [↑](#footnote-ref-4)
5. *NPRM* at 44, 46, paras. 107, 114. [↑](#footnote-ref-5)
6. ADTRAN Inc. (ADTRAN) Comments at 3-5; Allband Communications Cooperative (Allband) Comments at 6; Broadband Alliance of the Midwest (BAM) Comments at 5; Concerned Rural LECS Comments at 4; USTelecom Comments at 2-3. [↑](#footnote-ref-6)
7. ADTRAN Comments at 8; Concerned Rural LECS Comments at 12; ITTA Comments at 15-19; NTCA Comments at 31; TDS Telecommunications Corp. Comments at 1. [↑](#footnote-ref-7)
8. *NPRM* at 31, para. 66. In a prior order, in order to stay within the overall budget due to the significant demand for A-CAM support, the Commission revised the offer for 191 electing carriers whose original offer of model-based support was more than their legacy support by reducing the funding cap to $146.10 or less per location and then further reducing carrier-specific offers by varying amounts based on the percentage of locations lacking 10/1 Mbps. *See A-CAM Revised Offer Order*, 31 FCC Rcd 13777, 13778, paras 8, 13. *See also* *Wireline Competition Bureau Authorizes 182 Rate-of-Return Companies to Receive More than $454 Million Annually in Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, 32 FCC Rcd 842 (WCB 2017). A total of 207 companies accepted revised offers of A-CAM support. [↑](#footnote-ref-8)
9. ITTA Comments at 13; USTelecom Comments at [↑](#footnote-ref-9)
10. *NPRM* at 53-54, paras. 144-47 [↑](#footnote-ref-10)