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

In the Matter of	)
	)
Connect America Fund	) WC Docket No. 10-90
	)
ETC Reports and Annual 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
WTA – ADVOCATES FOR RURAL BROADBAND

WTA – Advocates for Rural Broadband ("WTA") hereby submits its reply comments with respect to the *Notice of Proposed Rulemaking* ("*NPRM*") portion of the Commission's *Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking,* FCC 18-29, released March 23, 2018 ("*Order*") in the captioned proceedings. These reply comments are filed in accordance with the schedule established in 83 FR 17968 (April 25, 2018).

A. WTA Supports Substantial Increase in 2011 RoR High-Cost Budget

WTA and the substantial majority of commenting parties agree that the outdated 2011 high-cost support budget for Rate-of-Return ("RoR") carriers needs to be increased substantially to reflect the transformation of the former voice and low-speed broadband network of seven years ago into today's evolving high-speed broadband network, and the associated cost increases for broadband essentials such as fiber deployment, high technology labor, and network security.[1]

[1] See, *e.g.*, "Comments of NTCA – The Rural Broadband Association" in the captioned proceedings (May 25, 2018) at p. 15 ("NTCA comments"); and "Comments of the USTelecom Association" in the captioned proceedings (May 25, 2018) at pp. 3-4 ("USTelecom comments").

A properly budgeted and funded RoR high-cost mechanism will foster deployment of the fundamental high-speed broadband network that not only will provide reasonably comparable service to rural customers but also will benefit the Commission's other Universal Service programs. For example, it will enhance the efficiency of the Commission's proposed Rural Health Care program changes by bringing higher-speed broadband network facilities much closer to many rural health clinics, while also improving their effectiveness by increasing the access of existing and prospective rural patients to the high quality broadband facilities and applications needed to perform and deliver advanced telemedicine services.

B. WTA Supports A Single RoR High-Cost Budget

WTA agrees with USTelecom and NTCA[2] that the RoR high-cost budget should be a single budget rather than a series of separate program budgets as advocated by ITTA-The Voice of America’s Broadband Providers (“ITTA”) and the Nebraska A-CAM Companies (“Nebraska ACAM).[3] While the “from the bottom up” budgets proposed by WTA and NTCA include calculations of high-cost support for Alternative Connect America Cost Model (“ACAM”) companies, cost-based RoR companies and Alaska Plan companies, there remain many common issues that apply to all RoR companies that would be rendered much more complicated and difficult to address if the existing RoR budget within the High-Cost Program were to be balkanized into three, four, five or more separate budgets.

The primary consideration is the fact that the RoR budget supports the small companies that serve many of the nation’s most remote, rugged and sparsely populated rural areas – the areas that the old Bell System and larger independents did not want to serve. The residents of these very rural areas should receive comparable access to broadband facilities and services, and

[2] USTelecom Comments, p. 4; NTCA Comments, pp. 41-6.
[3] ITTA Comments, p. 7; Comments of Nebraska A-CAM Companies, p. 3.

corresponding equivalent opportunities to participate in the 21st Century society and global economy. They should not be advantaged or disadvantaged by whether their rural local exchange carrier ("RLEC") was able to opt into ACAM or the Alaska Plan, or whether it voluntarily or involuntarily remained on cost-based RoR support. High-cost support can and should be distributed more evenly and fairly to improve broadband access for residents of all RoR areas via a single RoR budget rather than multiple mechanism-by-mechanism budgets that are likely to diverge from one another more and more as time passes.

In addition, separate RoR mechanism budgets would complicate the administration of common mechanisms such as Connect America Fund – Intercarrier Compensation ("CAF-ICC"), as well as the migration of companies from cost-based RoR regulation and support to model-based regulation and support. CAF-ICC, which is currently declining[4] as Eligible Recovery, terminating switch access rates and reciprocal compensation rates decrease each year, is received by ACAM companies, cost-based RoR companies and Alaska Plan companies. Division of CAF-ICC support among separate ACAM, cost-based RoR and Alaska Plan mechanisms and budgets would be likely to require complex and fragile revisions to their distribution formulas. On the other hand, carving out CAF-ICC as a separate mechanism with its own budget would require annual budget revisions as the current transitions and support reductions continue, as well as annual decisions on how to allocate previously collected dollars no longer needed for CAF-ICC distributions. Similar complications would arise as cost-based RoR companies move to ACAM either via the glide path or via a broader new model offer. Rather that the current ability to move relatively freely among different mechanisms with a single RoR budget, movement within a regime of separate ACAM, cost-based RoR and Alaska Plan budgets would require

[4] CAF-ICC could increase, or additional cost recovery or transition mechanisms could be designed and implemented, if the Commission were to undertake certain types of revisions of originating switch access and/or transport charges.

formal revisions to at least two budgets every time a group of companies moved between mechanisms, as well as formal decisions on how to allocate reduced support amounts among separate budgets when cost-based RoR carriers agreed to take reduced support amounts via the ACAM glide path.

WTA agrees with USTelecom that RLECs and their customers need a holistic budget that fully funds ACAM, cost-based RoR and Alaska Plan programs, and that does not make one budget dependant upon the others. In particular, as USTelecom points out, it is wholly unfair to rural consumers to have a "favored" ACAM program that takes first, and a less favored cost-based RoR program that gets the "left-overs."[5] WTA believes that a single RoR high-cost budget is the most effective and efficient way to accomplish this, and that separate ACAM, cost-based RoR, Alaska Plan (and CAF-ICC) budgets, in addition to their increased administrative complexities, would be more likely to encourage infighting and other attempts by participants in one separately budgeted mechanism to increase its funding at the expense of the participants in the other separately budgeted mechanisms.

C. WTA Supports Full Funding of ACAM and Cost-Based RoR High-Cost Mechanisms

WTA supports "full funding" of existing ACAM participants up to a per-location funding cap of $200, as well as "full funding" of the High Cost Loop Support ("HCLS") and Connect America Fund – Broadband Loop Support ("CAF-BLS") mechanisms for cost-based RoR carriers. In the latter instance, this entails calculating HCLS and CAF-BLS according to the existing procedures in the Commission's Rules without reductions from budget control mechanisms, but with the following two modifications: (1) freezing HCLS at its 2018 level during the remainder of the 2018-2026 period, and (2) assuming Consumer Broadband-Only

---

[5] USTelecom comments, p. 4.

Loop ("CBOL") growth based on the assumptions in Appendix E of the *2016 RoR High-Cost Support Order*.[6]

Employing this approach, WTA estimates that an overall and fully funded revised RoR budget would be approximately $2.426 billion for 2018 (including the existing $200 million addition from the CAF Reserve) and would increase annually to reach approximately $2.975 billion in 2026 (again including $200 million of currently off-budget CAF Reserve dollars). See Exhibit A (re-filed from initial WTA comments).

If, for any reason, the Commission cannot "fully fund" this budget, WTA has proposed: (1) that a threshold level of support for cost-based carriers be set at 90 percent of each carrier's unconstrained average calculated HCLS and CAF-BLS support for the three preceding budget years; and (2) that the increased future support for existing ACAM companies be limited in an equivalent manner to an appropriate per-location funding cap somewhere between the current $146.10 level and $200.00.[7]

D. WTA Supports Maximum Glide Path Incentives and Participation

In addition to making its own trade-off between greater predictability and a reduced amount of high-cost support, every ACAM glide path participant benefits the Commission and the RoR industry as a whole by reducing the total demand for RoR high-cost support and easing RoR high-cost budget pressures. WTA therefore urges the Commission to adopt and implement a second model offer for glide path companies, and to encourage as much glide path participation as feasible – for example, by employing a $200 per-location funding cap, allowing participation

---

[6] *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016) ("*2016 RoR High-Cost Support Order*").

[7] To be very clear, WTA is not proposing any reduction in previously authorized ACAM support, but rather a partial reduction in the contemplated increase in the ACAM funding cap to a point between $146.10 and $200.00 if both the ACAM and the cost-based mechanisms cannot be "fully funded."

by carriers that were previously ineligible due to their commendable fiber-to-the-premises ("FTTP") and/or 10/1 broadband deployment, and modifying build-out obligations and transition paths to more equitably fit within the shortened remaining 8-to-9-year term. In fact, WTA believes that the Commission should seriously consider and adopt the option it included in paragraph 122 of the *NPRM* for maximizing glide path participation by adjusting the per-location funding cap for each carrier so that every existing cost-based carrier has the opportunity to opt into the ACAM glide path with only a small 5 to 15 percent (WTA proposes 5 percent loss of support.

E. WTA Recommends Postponement of a Broader Second ACAM Offer

WTA believes that the Commission should postpone consideration of a broader new model offer until after it has resolved the current outstanding issues regarding the increase in the outdated 2011 high-cost program budget, the full funding of existing ACAM participants and existing cost-based RoR carriers, and the design, participation and potential budgetary relief resulting from a second ACAM glide path offer.

WTA's position is similar to that of NTCA in that it believes that the existing RoR budget issues need to be resolved equitably before implementing a second broader model offer. Moreover, additional ACAM support resulting from a second broader model offer must consist of wholly new funding, and must not reduce the support of existing ACAM and cost-based RoR carriers.[8] WTA's position is somewhat similar to those of USTelecom and ITTA,[9] except that WTA believes that the second ACAM glide path election can and should be implemented first and at an early date, and that the resulting glide path participation and support reductions will

[8] NTCA Comments, at pp. 46-8.
[9] USTelecom Comments, at pp. 12-18; ITTA Comments, at p. 21.

provide very important information that should prove useful for the evaluation and design of any broader second ACAM offer.

If and when the Commission determines that a second broader ACAM offer is feasible, WTA recommends that all remaining cost-based RoR carriers be eligible to opt into ACAM support (including those with substantial FTTP and/or 10/1 broadband deployment), that the two-step procedures employed during the initial ACAM election be used, and that build-out obligations be reduced to more equitably fit the shorter term.

F. WTA Opposes Other Potential Reforms at This Time

WTA agrees with NTCA that resolution of RoR high-cost budget issues is critical at this time, and that most other reform proposals tend to create regulatory uncertainty without advancing important goals or fixing clear shortcomings in existing mechanisms.[10] WTA opposes proposals for the reduction of the Section 54.302 cap on total high-cost support, the consolidation of HCLS and CAF-BLS into a single mechanism, the expansion of high-cost support to include low income areas that are not high-cost areas, the conduct of customer means testing, and the adoption of winner-take-all reverse auctions. Among other things, these changes can reduce the RLEC resources available for broadband deployment and otherwise discourage future broadband investment.

The only entities supporting any of these proposals were NCTA – The Internet and Television Association ("NCTA") and the Wireless Internet Providers Association ("WISPA"), both of which want to replace the existing unsubsidized competitor challenge processes with reverse auctions when there is a "partial competitive overlap" of 50% or more of an RLEC study area.[11] While certainly serving the narrow interests of their members and excusing their inability

[10] NTCA Comments, p. 54.
[11] NCTA Comments, p. 4; WISPA Comments. pp. 6-7.

to satisfy the existing Commission challenge processes, the NCTA and WISPA proposals, if adopted, render it likely that about half of the residents of affected rural study areas will lose their existing broadband service and/or never get access to higher-speed broadband services as they evolve.

As indicated in WTA's initial comments, most cable television companies limit their "rural" service to towns, villages and other more heavily populated incorporated areas. Whereas their access to generally lower video content prices allows them to compete effectively in the towns they serve, they rarely extend their service into higher-cost outlying areas. There are no more than a handful of cable television systems that serve all or most of RLEC study areas, and one of these cable companies has already eliminated an RLEC's high-cost support.[12] Likewise, WISPA admitted in a Commission proceeding (where it was trying to reduce the evidentiary requirements for demonstrating service availability) that its members often cannot determine whether they can serve a particular customer location until they send a skilled installer to the premises to make an on-site assessment.[13] That is, whereas it is relatively inexpensive for a wireless Internet service provider ("WISP") to mount a few antennas on towers, it is never clear whether they actually can serve customer locations within their theoretical service contours, much less do so during bad weather, peak usage times, or even when certain foliage is in bloom.

In the end, the critical consideration that must be kept in mind with respect to any unsubsidized competitor challenge process is not current budget issues or technological neutrality, but rather the nature and quality of the broadband service that will remain available to the customers in the affected rural areas in both the short term and the long term. The existing "100% overlap process" and the yet-to-be-implemented "85% challenge process" protect these

[12] WTA Comments, pp. 36-7.

[13] "Comments of the Wireless Internet Service Provider Association," WC Docket No. 11-10, pp. iii and 11 (October 10, 2017).

consumer interests far better than the “50% overlap” proposals of NCTA and WISPA, or the established rural operational practices and capabilities of NCTA and WISPA members.

G. Other Matters

WTA agrees with NTCA that the capital investment allowance (“CIA”) has failed to operate as initially intended, and should be replaced by a more streamlined mechanism, including: (a) an annual certification by a professional engineer attesting that the RLEC network has been designed and upgraded in an efficient manner; and (b) required retention of records and contracts that show the procurement and labor costs for network build-outs (and that can be utilized to demonstrate efficient broadband network deployment).[14]

WTA also agrees with NTCA that Form 507 filing deadlines should be reconciled so that voice and broadband-only line counts are submitted at the same time (March 31) each year.[15]

H. Conclusion

WTA supports the Commission’s efforts to review and revise the 2011 RoR high-cost support budget, and urges it to use this opportunity to fully fund both the ACAM mechanism and the cost-based RoR mechanisms within a single budget. As indicated by WTA’s proposed RoR budget estimates, full funding is a very achievable objective, requiring an additional $226.2 million in 2018 (for a total of $2.426 billion, including $200 million of existing CAF Reserve) and increasing gradually to an estimated $2.975 billion (again including $200 million of CAF Reserve) in 2026. WTA believes that the impact of these modest RoR budget increases can be eased significantly by a second ACAM glide path offer that is broad enough (*i.e.*, open to all RLECs willing to make the trade-off between more specific and predictable support versus reduced support) and attractive enough (*e.g.*, by adjusting per-location funding caps to limit

[14] NTCA comments, pp. 70-1.
[15] Id., p. 72

support reductions of participating carriers to 5 percent or so) to increase ACAM glide path participation significantly. Finally, WTA recommends that the Commission postpone consideration of a second broader ACAM offer until the foregoing RoR budget revision, existing ACAM and cost-based RoR full funding issues, and second ACAM glide path offer and participation matters are resolved.

Respectfully submitted,
WTA – Advocates for Rural Broadband

By: /s/ Derrick B. Owens
Derrick B. Owens
Senior Vice President of Government & Industry Affairs
400 7th Street NW, Ste. 406
Washington, DC 20004
(202) 548-0202

By: /s/ Gerard J. Duffy
Gerard J. Duffy, Regulatory Counsel
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP
2120 L Street NW, Suite 300
Washington, DC 20037
(202) 659-0830

Dated: June 25, 2018