

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)
	)
Connect America Fund	) WC Docket No. 10-90

**COMMENTS  
OF  
WTA - ADVOCATES FOR RURAL BROADBAND**

**WTA – Advocates for Rural Broadband**

By: /s/ Derrick B. Owens

Derrick B. Owens

Senior Vice President of Government & Industry Affairs

400 Seventh Street, NW, Suite 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

## Table of Contents

<b>Summary.....</b>	<b>i</b>
<b>COMMENTS OF WTA – ADVOCATES FOR RURAL BROADBAND.....</b>	<b>1</b>
<b>I. The CAF Phase II Auction Location Adjustment Procedures Should Not Apply to ACAM Recipients.....</b>	<b>3</b>
<b>II. Location Corrections and Adjustments Do Not Require ACAM Support Reductions Where Rural LEC Networks Are Serving All of Their Funded Census Blocks.....</b>	<b>5</b>
<b>III. Location Adjustment Petitions Should Be Permitted at Any Time During the ACAM Term.....</b>	<b>9</b>
<b>IV. Conclusion.....</b>	<b>12</b>

## SUMMARY

WTA – Advocates for Rural Broadband believes that there are significant differences between the Connect America Fund (“CAF”) Phase II auction process (Auction 903) and the Alternative Connect America Cost Model (“ACAM”) I and II processes. Namely, ACAM recipients are accepting funding in their existing rural local exchange service territories, whereas CAF Phase II winners are building into new areas they proposed to serve and later bid on in a reverse auction. ACAM recipients are unaware of the estimates used by the Commission and CostQuest to determine funding amounts whereas auction winners could attempt to underbid and subsequently seek location adjustments. CAF II recipients have a six (6) year funding and build-out obligation, whereas ACAM electors have 10-to-12 year funding and build-out obligations. These differences make it unnecessary and counter-productive to use the CAF Phase II location adjustment procedures – particularly their one-year deadline for seeking adjustment of deployment obligations and their *pro rata* reduction of funding levels – for ACAM.

WTA opposes a reduction in ACAM funding due to an overestimation of serviceable locations in the model. WTA advises the Commission that its members are not just building out to locations, but they are building a lasting network that will be able to serve current and future locations in a service area. The predominant portion of the cost of constructing, maintaining and operating a rural local exchange carrier (“Rural LEC”) broadband network to reach a cluster of locations is fixed, and is not affected by moderate changes in the numbers of locations passed or served. A change in the number of serviceable locations in that cluster does not necessarily lower the overall cost of meeting its deployment obligations. Rather, the network-centric costs of building to that cluster remain, and a *pro rata* reduction of ACAM support would greatly cut into the funds needed to repay network construction loans as well as maintain and operate the underlying network as a whole. WTA also notes that additional funding could be used to help cover the costs of implementing performance testing solutions that are now required of carriers as a condition for accepting Universal Service support, which were not included in the ACAM support calculations.

Finally, WTA believes that past and future fluctuations in location data make it inefficient for the Commission to set a deadline of 2021 for ACAM recipients to petition for location adjustments. Rather, WTA proposes that ACAM recipients be permitted to request location adjustments at any time prior to the end of 2028. This will allow time for location discrepancies to stabilize as well as create an accurate compilation of the locations where specified broadband services and speeds are offered.

In the Matter of )  
 )  
Connect America Fund ) WC Docket No. 10-90

WTA – Advocates for Rural Broadband (“WTA”)<sup>1</sup> hereby submits its comments in response to the location adjustment procedures portion of the Public Notice (*Wireline Competition Bureau Issues Corrected Alternative Connect America Model II Offers to 37 Companies, Extends the Election Deadline, and Seeks Comment on Location Adjustment Procedures*), WC Docket No. 10-90, DA 19-504, released June 5, 2019. These comments are submitted in accordance with the schedule established in 84 Fed. Reg. 32117 (July 5, 2019).

As the Wireline Competition Bureau and the rural local exchange carrier (“Rural LEC”) industry are well aware, there are substantial discrepancies in many state service areas between the numbers of model-determined funded locations that Alternative Connect America Cost Model (“ACAM”) I and II support recipients are expected to serve (funded locations) and the actual numbers of locations that can be served therein (actual locations). Some of these discrepancies are the result of differences between ACAM model assumptions and actual demographic conditions; others are the result of population and other demographic changes since the compilation of the 2010-2012 data used in the ACAM modeling. The Commission and

<sup>1</sup> WTA is a national trade association representing more than 340 rural telecommunications providers that offer voice, broadband, and video-related services in rural America. WTA members are predominately rural local exchange carriers that serve some of the most rugged, remote and/or sparsely populated areas of the United States. The primary service areas of WTA members are comprised of low-density farming and ranching regions, isolated villages, mountain and desert communities, and Native American reservations. WTA members are providers of last resort to many remote areas and communities that are both very difficult and very expensive to serve.

Bureau have recognized that ACAM recipients should be able to seek adjustments to their deployment obligations if the numbers of actual locations that can be served in their funded census blocks are significantly less than the numbers of funded locations comprising their deployment obligations. The Bureau has directed interested parties to its Public Notice (*Wireline Competition Bureau Seeks Comment on Procedures to Identify and Resolve Location Discrepancies in Eligible Census Blocks Within Winning Bid Areas*), WC Docket No. 10-90, DA 18-929, released September 10, 2018 (“*CAF Phase II Adjustment Notice*”), and has requested comments whether the location adjustment procedures proposed therein for CAF Phase II recipients should also be used for ACAM recipients.

WTA believes that the differences between the CAF Phase II auction process (Auction 903) and the ACAM I and II election processes are so substantial and critical that they render the CAF Phase II location adjustment procedures – particularly their one-year deadline for seeking adjustment of deployment obligations and their *pro rata* reduction of funding levels – not only irrelevant but also extremely disruptive and counter-productive to the goal of the ACAM program to provide predictable and sufficient high-cost support to encourage and enable broadband deployment in Rural LEC service areas. Not only should there be no *pro rata* reductions in ACAM support when inaccurate estimates of funded locations are corrected and reduced, but also there should be no ACAM support reductions at all and no Section 54.302(d)(2) penalties when overstated location estimates are corrected to reflect their actual levels. Given the overriding importance of deploying and upgrading broadband **networks** to serve rural areas and the fact that there is virtually no difference in the cost of constructing and operating rural broadband **networks** even when the numbers of locations fluctuate moderately, WTA believes that ACAM recipients should not have their support reduced as a result of

location adjustments as long as they have deployed the requisite broadband networks and speeds to serve their funded census blocks. Finally, given that the 2010-2012 data showing numbers of actual residential and business locations have already changed and are likely to change further in many Rural LEC service areas before the scheduled December 31, 2028 termination of most ACAM support, it will be much more efficient for both the Commission and ACAM recipients to allow ACAM recipients to seek location adjustments at any time before the end of 2028 when they find that the discrepancies between their funded and actual locations have stabilized and are unlikely to change significantly or to require further adjustments.

**I.**  
**The CAF Phase II Auction Location Adjustment Procedures  
Should Not Apply to ACAM Recipients**

The CAF Phase II auction permitted participants to select the specific unserved census blocks where they would propose to build and operate new networks, and to bid for those census blocks on an individual block-by-block basis. Moreover, the reverse auction process required participants to reduce their bids every round and to accept as little high-cost support (“HCF”) as possible if they wanted to win the right to receive any HCF at all to deploy and operate their proposed new facilities in the census block. Under those circumstances, the Commission had reasonable cause to suspect that some participants might have purposely or over-ardently made unreasonably low winning bids, and might subsequently attempt to improve their positions by claiming not to be able to find or serve some of the locations where their construction and operating costs would be higher. Because the CAF Phase II auction build-out period was only six (6) years and participants were presumed to have studied and become familiar with the individual census blocks that they had bid upon and won, the Commission reasonably adopted a

one-year deadline for seeking location adjustments and sought to discourage attempts to improve reverse auction “deals” by reducing support on a *pro rata* basis for recipients whose numbers of funded locations are adjusted downward.

In stark contrast, ACAM I and II participants have not selected or bid upon their funded census blocks on an individual basis, but rather have had to elect to adopt offered amounts of ACAM support on a state-wide basis for all of the funded census blocks in their existing local exchange service networks. WTA members and other ACAM recipients are not proposing to build new networks in unserved areas with reverse auction dollars, but rather have long provided first voice service and then lower-speed broadband services in their local exchange areas. They have now opted into the ACAM program in order to obtain predictable and sufficient support to upgrade their networks to provide higher-speed broadband services and to extend their networks in some places to reach those areas that do not yet have access to high-speed broadband services. Whereas WTA members and other Rural LECs know their service areas and have demonstrated long-term commitments to provide state-of-the-art and affordable services to their rural customers, they are not clear as to how the Commission and CostQuest estimated the numbers of residential and small business locations within their service areas. Most WTA members that have investigated the ACAM I and/or ACAM II offers know that their actual existing and potential customer locations are different than the estimated number of funded locations comprising their build-out obligations, but do not know how the Commission estimates were derived or what reasons or areas were primarily responsible for the discrepancies.

These differences mean that the location adjustment procedures for the CAF Phase II auction winners – particularly the one-year deadline for seeking adjustment of deployment



obligations and the *pro rata* reduction of funding levels – cannot and should not be applied to ACAM I and II recipients.

**II**  
**Location Corrections and Adjustments**  
**Do Not Require ACAM Support Reductions**  
**Where Rural LEC Networks Are Serving All of Their Funded Census Blocks**

What WTA members and other Rural LECs do know is that they are in the business of constructing and operating broadband **networks**. Whereas Rural LECs serve a variety of villages, farming, ranching, mining, forest, mountain, desert and Tribal areas, their common goal is to build networks with trunks, branches and other distribution facilities that come close enough to the homes and businesses of their existing and potential customers to provide them with state-of-the-art broadband and voice services. And when building and running these rural networks, the majority of construction, maintenance and operating costs incurred by Rural LECs are network-centric costs, and are not significantly affected by moderate fluctuations in the numbers of customers or locations served. For example, a 35-mile broadband network trunk in a buried conduit along a rural road will be subject to virtually the same costs whether it passes 15, 25 or 35 residential locations, or whether it was designed to serve up to 30 residential customers and only 17 households actually subscribe. Similarly, a 20-mile branch facility intended to serve an off-road rural development comprised of a cluster of homes will cost virtually the same amount to construct and operate whether the cluster contains 10, 20 or 30 homes, or whether 50 percent, 75 percent or 95 percent of those homes actually subscribe to service. Likewise, a Rural LEC is likely to operate with administrative and maintenance staffs of the same size and comparable salary cost whether it serves 500, 1,000 or 2,000 locations, and will generally increase or

decrease the size of its administrative and technical staffs only when it experiences very significant increases or decreases in the numbers of customers and locations it serves.

The point here is that that predominant portion of the cost of constructing, maintaining and operating a Rural LEC broadband network is fixed, and is not affected by moderate changes in the numbers of locations passed or served. Obviously, this is not true at the extremes – a company that found that it had 100 locations instead of 1,000 would expect to have reduced construction and operating costs - but this situation is unlikely to occur in the existing ACAM context. Rather, a wholly conceivable fluctuation in locations passed or served -- for example, of 15 percent, 20 percent or 25 percent -- along a network's basic trunk and branch distribution routes would not appear to have a significant impact upon Rural LEC construction, maintenance and other operating costs, or high-cost support needs. Similarly, a Rural LEC network that passes and offers service to 1,000 locations is not likely to have reduced construction and operating costs or reduced ACAM support needs if it actually serves only 750 active customer locations.

The predominance of network costs that do not vary significantly with moderate changes in the numbers of locations or customers appears to be wholly consistent with CostQuest's development of an ACAM model that builds a network to serve a geographic area.<sup>2</sup> CostQuest considered service capabilities, demand, and geography by laying out trunk cable along roads to connect locations with central offices. In particular, it used service clusters – that is, groups of locations that share the same common network technology.<sup>3</sup> Whereas CostQuest employed geocoded locations along roads, it acknowledged that 4 percent of residential homes and 6

---

<sup>2</sup> CostQuest Associates, Inc., Connect America Cost Model (A-CAM): Model Methodology Version 2.4.0 (May 1, 2018), available at <https://docs.fcc.gov/public/attachments/DOC-350679A1.pdf>.

<sup>3</sup> *Id.* at 45.

percent of businesses could not be accurately located.<sup>4</sup> While a significant difference in the number of locations could result in a different network design, in most cases the presumed ACAM network design would not change, but rather would serve fewer locations along a trunk that still must extend all of the way to the location that is farthest from the central office. The cost of deployment of the modeled ACAM network would largely be the same, other than a smaller number of drops to homes.<sup>5</sup>

Correction of over-estimates of funded ACAM locations is necessary to provide accurate data regarding broadband availability and adoption, and to allow the Commission and ACAM participants to monitor completion and satisfaction of broadband build-out obligations. However, given the predominance of basic and unchanging network costs, reductions based on inaccurate counts of locations to their accurate actual levels should not be accompanied by *pro rata* reductions of ACAM support. This would be disastrous for ACAM recipients because reductions in the numbers of locations passed along a network route, as well as in the numbers of customers actually served along a network route, do virtually nothing to reduce the costs of deploying, maintaining and operating their networks. An accompanying *pro rata* reduction of ACAM support would cut deeply into the funds needed to repay network construction loans, and to maintain and operate the underlying network as a whole. Even the threat of such *pro rata* reductions would undermine the predictability of stable and sufficient support that was the key to the voluntary election of ACAM support by Rural LECs and the willingness of their owners and lenders to embark upon substantial upgrades of their broadband networks.

---

<sup>4</sup> *Id.* at 13

<sup>5</sup> Location counts are also used in the ACAM model to calculate the average cost per location for a given census block, in order to distinguish “low-cost” census blocks that do not receive funding from “high-cost” and “extremely high-cost” census blocks that are funded. If there are fewer actual locations, the cost of serving that census block would remain largely the same, but the average cost per location would be higher. This could change the funding status of the census block, as well as the number of locations subject to 25/3 Mbps or 10/1 Mbps speed requirements.

WTA notes that ACAM support is not reduced when a Rural LEC deploys a 25/3 network that passes the number of locations that meet its build-out obligation, even if only 30 percent, or 50 percent, or 70 percent of those locations ever actually subscribe to the broadband service. Why then would it be reasonable to reduce a Rural LEC's ACAM support by 20 percent if its estimated funded locations were found to be exaggerated and reduced by 20 percent to the accurate actual number of locations, particularly where the reduction in estimated locations has virtually no impact upon the ACAM recipient's costs?

WTA also notes that the costs of performance testing – including testing software, software licenses, customer premises equipment and additional employees and overtime – have not been included in the operating costs supported by ACAM. Rather, these additional costs, which some WTA members estimate will be at least \$250 thousand a year for their relatively small companies, are reducing the sufficiency of the ACAM support that these carriers elected. WTA emphasizes that a primary factor impacting the ACAM elections of its members was the certainty and stability of a ten-year “contract” establishing specific high-cost support distributions and build-out obligations.<sup>6</sup> WTA members do not want to change these arrangements, but believe that it would be unfair for the Bureau to reduce the promised ACAM support amounts due to the correction of known errors and inaccuracies in associated location estimates that have no significant impact on the relevant network costs while at the same time imposing substantial new and additional performance testing and other regulatory costs on ACAM recipients that were not included in the ACAM support calculations.

WTA proposes that ACAM recipients not be penalized in any manner – either pursuant to Section 54.320(d) claw-backs or to *pro rata* or other reductions of their specified ACAM support – in connection with the correction of erroneous or out-of-date estimates of funded locations to

---

<sup>6</sup> In 2016, just under forty-five (45) percent of WTA's membership at that time opted to take ACAM I support.

reflect the accurate and actual number of locations in the recipient's funded service area. Instead, the Bureau should declare that it will accept, consider and grant appropriate petitions for ACAM location adjustments, but that there will be no Section 54.320(d) penalties or ACAM support reductions as long as petitioning ACAM recipients demonstrate that they have deployed networks capable of serving at least 95 percent of the actual numbers of locations in their funded census blocks and have submitted accurate calculations showing the actual numbers of locations in such funded census blocks.

### **III Location Adjustment Petitions Should Be Permitted at Any Time During the ACAM Term**

The one-year deadline for seeking location adjustments in the CAF Phase II adjustment process is wholly ineffective and inefficient with respect to ACAM location adjustments. Rather, ACAM recipients should be able to request location adjustments at any time before the end of 2028 when they determine that the discrepancies between their funded and actual locations have stabilized and are unlikely to change significantly or to require further adjustments.

The critical factor is that the terms of most ACAM I and II arrangements will run until December 31, 2028. As noted above, some of the current discrepancies between ACAM funded locations and actual locations appear to be due to the 7-to-9 years that have already passed since the compilation of the 2010-2012 data upon which they are based. By the time that the ACAM terms end in 2028, the underlying location data will be 16-to-18 years old and the size of current discrepancies will be likely to have changed further. In some cases, population increases and the creation of new rural housing developments may reduce the size of a carrier's location

discrepancy. In other cases, out-migration from rural service areas will increase funded-versus-actual location discrepancies.

WTA again emphasizes that it is not seeking to renegotiate or otherwise change the existing ACAM offers and acceptances that have been voluntarily agreed upon. If the number of actual locations in an ACAM service area increases before the end of 2028 so as to exceed the number of the carrier's funded locations, WTA agrees that no location adjustments will be necessary and that there should be no increases in the agreed-upon ACAM support and build-out arrangements. However, if a carrier constructs a network capable of serving all or virtually all of the actual existing locations in its funded census blocks but its estimated funded locations exceed its actual locations – either due to modeling errors or demographic changes since 2010-2012 – the carrier must be permitted to reduce its number of funded locations down to the number of its actual locations – without penalty, as discussed above – because it cannot offer service to non-existent locations.

If the Bureau were to establish an early deadline for requesting location adjustments – either within one year or by some other date well prior to December 31, 2028 – it will not significantly resolve location discrepancy issues. For example, if Carrier A had 1,000 estimated funded locations but only 850 actual locations at a location adjustment petition deadline in 2021, but subsequently had a 200-unit housing development constructed in its area during 2024, how should the matter have been most efficiently and effectively handled? Should the Bureau have conducted a location adjustment proceeding in 2021, and then a second one in 2024? If the Bureau had reduced Carrier A's ACAM support as well as its funded locations in 2021, should it restore the support in whole or part in 2024? Or would the whole matter have been most efficiently handled by waiting until late in the term and finding that no location adjustment was

needed (or a much smaller one if the housing development consisted of 100 units, and had instead reduced the funded-versus-actual discrepancy from 150 locations to 50 locations)? Similarly, if Carrier A had 1,000 estimated funded locations but only 850 actual locations at a location adjustment petition deadline in 2021 but was losing an average of 20 locations a year (such that it would have only 710 actual locations by the end of 2028), how should this situation be most efficiently and effectively handled? Should the Bureau conduct a location adjustment proceeding in 2021, and then up to seven subsequent ones during the succeeding years? Should the number of funded locations be frozen as of the 2021 petition deadline – even if it would be impossible for Carrier A to serve that number of locations at the end of 2028 if it constructed the most perfect network possible?

WTA notes that demographic changes are not the only factor relevant to potential location adjustments. As the Universal Service Administrative Company (“USAC”) improves its High Cost Universal Broadband (“HUBB”) portal and as the Commission, CostQuest, USTelecom and others work to improve the accuracy of broadband mapping and location reporting, the Bureau and ACAM recipients should be able to spot, evaluate and adjust location discrepancies more accurately during the foreseeable future.

In light of these factors, WTA proposes that ACAM recipients be permitted to request location adjustments at any time prior to the end of 2028. Both the Bureau and ACAM recipients will be well served by an accurate compilation of the locations where specified broadband services and speeds are offered. This can be most effectively and efficiently accomplished when ACAM recipients are able to determine that any discrepancies between their funded and actual locations have stabilized and are unlikely to change significantly or to require further adjustments.

## IV

### Conclusion

Particularly in light of the fact that the costs of constructing, maintaining and operating Rural LEC broadband networks are predominately network-centric costs that are not significantly affected by moderate fluctuations in the numbers of customers or locations served, WTA proposes that ACAM recipients not be penalized in any manner – either pursuant to Section 54.320(d) or via *pro rata* or other reductions of their specified ACAM support – in connection with the correction of erroneous or out-of-date estimates of funded locations to reflect the accurate and actual number of locations in their funded service areas. Instead, the Bureau is requested to declare that it will accept, consider and grant appropriate petitions for ACAM location adjustments without penalties or support reductions as long as petitioning ACAM recipients demonstrate that they have deployed broadband networks capable of serving at least 95 percent of the actual locations in their funded census blocks and have submitted accurate calculations and other relevant evidence showing the actual numbers of such locations.



WTA further proposes that ACAM recipients be permitted to request location adjustments at any time prior to the end of 2028 when they are able to determine that any discrepancies between their funded and actual locations have stabilized and are unlikely to change significantly or require further adjustments.

Respectfully submitted,

**WTA – ADVOCATES FOR RURAL BROADBAND**

By: /s/ Derrick B. Owens  
Derrick B. Owens  
Senior Vice President of Government  
& Industry Affairs  
400 7<sup>th</sup> 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

July 19, 2019