

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

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

COMMENTS OF TDS TELECOMMUNICATIONS LLC

TDS Telecommunications LLC. (“TDS Telecom”), by counsel, files these comments in response to the *Public Notice* released by the Wireline Competition Bureau (“Bureau”) seeking comment on procedures for adjusting broadband deployment obligations when facts on the ground are different than the location information contained in the Federal Communications Commission’s (“Commission”) Alternative Connect America Cost Model (“A-CAM”).¹

As explained more fully herein, TDS Telecom strongly believes that funding should not be reduced on a pro-rata basis for location shortfalls and stands ready to work cooperatively with the Commission and industry to develop an alternative approach that is appropriately tailored for A-CAM companies. Moreover, TDS Telecom requests that the Bureau confirm that the provisions of section 54.320(d)(2) relating to failure to meet final milestones are inapplicable to companies that lack the requisite number of locations. Finally, TDS Telecom believes that companies should be provided the flexibility to seek a location count adjustment at any point during the A-CAM term of support.

At the outset, TDS Telecom commends the Commission for recognizing in 2016 that there could be situations where companies are unable to meet their broadband deployment obligations through no fault of their own, and that circumstances in the real world may differ from estimates in the A-CAM

¹ *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*, Public Notice, DA 19-504 (WCB Jun. 5, 2019) (*Public Notice*).

model.² After several years of building the network to meet its A-CAM buildout obligations, TDS Telecom has gained practical experience with the actual number of locations and the cost for deploying to these rural, economically challenging A-CAM areas. As the largest company to accept the initial and subsequent offers of A-CAM support, with an obligation to provide broadband at specified speeds to nearly 160,000 locations in 25 states, TDS Telecom offers the perspective of a company that is deploying broadband in many areas across the country.

I. A-CAM SUPPORT SHOULD NOT BE REDUCED PRO-RATA FOR LOCATION SHORTFALLS.

Fundamentally, the Commission is providing A-CAM companies with support to build networks that are capable of serving the entire funded footprint. That is the essential premise of the universal service mandate. Once TDS Telecom's A-CAM deployments are completed, we expect to be able to serve new customers in our funded areas, even as subscription rises and falls, and even if new homes are constructed at a future date. Our ability to serve is agnostic as to the precise number of serviceable locations. Funding should not be reduced pro rata for any eventual location shortfalls.

We are designing our A-CAM upgrades in the context of engineering capital improvements to extend our existing network within our entire service area footprint. In engineering our A-CAM builds, TDS Telecom deploys fiber deeper into its network by building more Digital Service Areas ("DSAs"), which will provide broadband service to locations that are within a specified distance of each DSA. Because TDS Telecom must deploy broadband service to over 22,000 A-CAM funded census blocks, literally thousands of new DSAs are required. In cases where several funded census blocks are adjacent to each other, these DSAs will likely serve several census blocks.

TDS Telecom's real world experience is consistent with the Commission's own cost model. The A-CAM model builds a network to cover a geographic area. As explained in the model documentation, the first step to estimating costs to serve a rural market is to understand what must be served:

² *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, 3102, para. 34 (2016) (*2016 Rate-of-Return Reform Order*).

“Understanding demand is vital to modeling a realistic telecommunications network. Key elements include the number of consumers and businesses as well as where those demand points are located.”³

The second step is to design a network, taking into account required service capabilities, demand, and geography. The model logic designs a network by laying out cable along the actual roads to connect locations with their serving central office. In particular, the model designs service clusters, which are a group of demand points that share the same common network technology.⁴ It develops natural clusters by linking together demand points that are closer together (neighbors), and then links those clusters of neighbors into neighborhoods until the limits of distance or capacity are reached based on standard engineering principles.⁵ While a significant reduction in demand points could result in a different network design, in many other cases the same network topology would be created, albeit to serve fewer locations, because the network still must be built to serve whatever location is farthest from the central office. The cost of deployment would largely be the same, other than a fewer number of drops to the home.

Aside from being used to create a network topology, location counts are used in the model to unitize cost. Costs at the census block level are divided by the number of locations in that census block to arrive at an 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. Dividing total costs by the number of locations allows the Commission to compare the relative costs to serve for different census blocks with widely varying density and geographic characteristics. With this information, support can be targeted to areas where the revenues from customers are not expected to cover the cost of operations. If there are fewer locations in reality, the cost of serving that census block would remain largely the same, but the average cost per location would be higher,

³ CostQuest Associates, Inc., Connect America Cost Model (CACM): Model Methodology 12 (May 1, 2018), available at <https://docs.fcc.gov/public/attachments/DOC-350679A1.pdf>. In order to design the network, locations have to be geocoded. The model places geocoded locations along roads, but the model documentation expressly acknowledges that not all locations could be accurately placed: 4 percent of the residential homes and 6 percent of the businesses were not “well coded” and had to be randomly assigned to road segments. *Id.* at 13.

⁴ *Id.* at 45.

⁵ *Id.* at 47.

potentially pushing some census blocks into the partially funded category. Rather than reducing support for location shortfalls, the better course is to allow A-CAM companies to use that support to upgrade service in partially funded census blocks.

The vintage and limitations of the location data in the model are well known. According to the A-CAM model methodology, residential and business data was initially sourced from GeoResults (Q3/2012), a commercial data source. For residential data, while GeoResults data provided the basis for the majority of the locations in the country, the primary source of counts of housing units by Census Block was the Census Bureau's 2010, SF1 Census Block data, which was updated to 2011 counts using the Census Bureau's 2011 county estimates.⁶ At the end of the A-CAM term for most recipients, this information will be *17 years out of date*. It thus will not be surprising when it turns out that not all of locations assumed in the model still exist in 2028.

The Commission expressly acknowledged in 2014 that the model “utilizes GeoResults business location data, which in some instances may be inaccurate in terms of either business counts or actual physical locations.”⁷ Moreover, it is not clear from the model documentation what types of enterprises are considered business locations in GeoResults, or the specific objective criteria used by the model contractor to identify which locations would be deemed “small” business locations and therefore part of the funded location counts. There could well be discrepancies between business locations in the model based on GeoResults and the ultimate definition of business location adopted by Bureau for purposes of submitting locations into Universal Service Administrative Company's (“USAC”) High Cost Universal Broadband (“HUBB”) portal.

The net result is that location counts in the model should not be viewed as “objectively true.” They were based on data sources that in some cases may have been inaccurate at the time the model was created and, in any event, have become progressively less accurate over time. Experience has shown that

⁶ *Id.* at 13-14.

⁷ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15659, para. 38 (2014) (*December 2014 Connect America Order*).

the extent of inaccuracies in the model may be more widespread than originally assumed. A-CAM companies should not be penalized for errors in the Commission's model.

When the Commission delegated authority to the Bureau to address location discrepancies for A-CAM companies, it directed the Bureau to adjust the number of funded locations downward and reduce associated funding levels. Notably, it did not specify that funding for A-CAM companies should be reduced "pro rata," as it previously had done when delegating authority to the Bureau to adjust location counts for carriers unable to meet Phase II deployment obligations due to a lack of locations.⁸ We encourage the Bureau to take a fresh look at developing an alternative to pro rata support reductions so that A-CAM companies can continue to make progress in meeting the goal of universal broadband in the markets they serve.

In TDS Telecom's experience, the cost to serve A-CAM locations at the required speeds does not significantly fluctuate if the actual number of locations varies from the model's location counts. We have found that the cost to serve these census blocks does not directly correlate to the number of locations in an area. As a result, TDS strongly believes that reducing support based on the average cost per location that the model calculated is not warranted in situations where there is a location shortfall.

II. IT IS PREMATURE TO DETERMINE A REMEDY FOR LOCATION SHORTFALLS.

The consequence of a location shortfall should not be effectively to punish companies that are working in good faith to meet their universal service mandates. TDS Telecom stands ready to work collaboratively with the Commission and other interested stakeholders to develop an approach that will best serve the interests of rural America. This is an issue that requires more study to devise a solution that appropriately recognizes the different circumstances facing A-CAM companies.

⁸ Compare *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3102, para. 34 (delegating authority to the Bureau to address discrepancies by adjusting the number of funded locations downward and reducing associated funding levels) with *December 2014 Connect America Order*, 29 FCC Rcd at 15659, para. 38, n.88 (delegating authority to the Bureau to address any discrepancies in the number of locations for Phase II price cap carriers by adjusting the number of funded locations in the relevant state and the associated funding levels on a pro rata basis) and *Connect America Fund*, WC Docket No. 14-259, Order on Reconsideration, 33 FCC Rcd 1389, 1390-92, paras. 23-24 (2018) (delegating authority to the Bureau to implement a process to evaluate requests by Phase II auction recipients to reduce deployment obligations and specifying that support would be reduced pro rata).

The outcome of future FCC Form 477 data modifications and broadband mapping initiatives may inform the FCC's views on how many locations exist in particular areas. Indeed, preliminary analysis from the Broadband Serviceable Location Fabric initiative that is co-sponsored by USTelecom, ITTA, WISPA, TDS Telecom and other companies indicates that the 2011 census housing unit data incorporated into the cost model are different from the number of residential structures identified in the mapping pilot in more than 60 percent of Missouri residential-only census blocks.⁹ It would be ill advised to proceed swiftly now to adjudicate individual instances of location shortfalls for A-CAM companies that want to seek an adjustment in their deployment obligations, given the possibility of a better data set at a future date that would shed light on what actually exists in the real world.

The maturation of HUBB reporting, validation and verification processes may further refine what locations "count" for purposes of meeting deployment obligations. Today, for instance, there remains uncertainty on what home-based business locations "count" for purposes of meeting deployment obligations. Over time, greater clarity regarding these and other location reporting situations may develop, which may result in carriers adjusting their internal processes for identifying locations.

The Commission should make clear, however, that section 54.320(d)(2) is inapplicable to A-CAM companies when the number of actual locations is less than the number of model-determined locations. For ease of reference, section 54.320(d)(2) specifies that if a recipient fails to meet its final milestone, USAC will recover an amount equal to the average support per location in the state for the relevant number of locations over the term of support times a factor of 1.89 plus an additional ten percent of total support received in that state. These compliance measures are intended only for situations in which locations exist, but the recipient of support is not serving them, for one reason or another. It was adopted to deter companies from choosing not to meet their deployment obligations. The Commission has established a different process and remedy for situations where locations do not exist.

⁹ Letter from B. Lynn Follansbee, Vice President – Law and Advocacy, USTelecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 11-10, WC Docket No. 10-90, and WC Docket No. 19-126 (filed Jul. 1, 2019).

Section 54.320(d) was originally adopted in 2014 when the Commission adopted the final rules for the Phase II of the Connect America Fund for price cap carriers, and was subsequently amended with scant discussion to apply to all recipients of support with broadband deployment obligations. The language and context of the 2014 decision made clear that the Commission was focused on carriers “that *do not intend to meet* their deployment obligations,” because “there may be discrete census blocks identified during the early planning stages *that will be challenging to serve.*”¹⁰ The Commission required price cap carriers “to identify up front those particular census blocks that *they know they will not deploy to* during Phase II,” so that the Commission could place those census blocks in the Phase II auction.¹¹ This language clearly is focused on situations where a recipient is making a business decision not to serve discrete areas, not a situation where the locations in funded areas simply do not exist. It would be beneficial for the Bureau to confirm that this is the appropriate interpretation of the application of section 54.320(d)(2) to eliminate the threat of USAC recovering such amounts at the end of the A-CAM term from companies that lack the requisite number of actual locations.

III. A-CAM COMPANIES SHOULD HAVE FLEXIBILITY TO SEEK LOCATION ADJUSTMENTS AT ANY POINT IN THE A-CAM TERM.

The *Public Notice* noted that the Bureau had previously sought comment on procedures for location adjustments for Phase II auction winners, and it asked whether those procedures would be appropriate for A-CAM recipients. The Bureau invited comment on what changes should be made to those procedures to make them appropriate for A-CAM recipients and to address the unique characteristics of A-CAM recipients in the context of the location adjustment issue.

Different procedures are appropriate for A-CAM companies for several reasons. First, A-CAM companies have a significantly longer time to meet their broadband commitments than the six-year schedule for completing Phase II deployments, giving the facts on the ground longer time to shift. Moreover, A-CAM companies had to make their election on state-level basis and could not pick specific

¹⁰ *December 2014 Connect America Fund Order*, 29 FCC Rcd at 15659, para. 39 (emphasis added).

¹¹ *Id.* (emphasis added).

areas to serve like auction participants. Finally, unlike the vast majority of Phase II auction winners, A-CAM companies have been the incumbent voice service provider in their communities for many decades and have already deployed broadband to those portions of their service territories where it was financially viable to do so. There is little risk of A-CAM companies shirking their responsibility to serve the locations that actually exist in rural markets; we already are working hard to upgrade our existing networks with the aid of A-CAM support. We are committed to serving our communities.

For Phase II auction winners, the process for adjudicating and resolving location discrepancies is slated to occur a year after the Phase II auction closing public notice. That short timeframe would be inappropriate for A-CAM companies. Instead, those companies should be free to seek a location adjustment to their deployment obligations utilizing the filing procedures ultimately adopted for A-CAM companies at any point in the A-CAM term.

The vast majority of A-CAM companies have 12 years to complete their required deployments, and in many instances will not know whether they are “short” of the specified number of locations until the end of the term. There undoubtedly will be changes in the number of serviceable locations over a 12-year horizon. For example, a married couple may give adult children land within a family farm to build their own homes. In other instances, farms may be sold for development into new residential communities. It would be premature and counter-productive to force A-CAM companies to resolve any potential location discrepancies early in the A-CAM term. A-CAM companies that wish to petition the Bureau regarding known location shortfalls earlier in the term should be free to do so, but companies should also have the flexibility to wait until the end of the term when there is greater clarity regarding the number of locations that exist at that point in time.

CONCLUSION

TDS Telecom commends the Bureau for inviting comment on how to modify the procedures previously proposed for Phase II auction support recipients for location adjustments to take into account the unique characteristics of A-CAM companies. We support an alternative approach that would not reduce A-CAM support on a pro rata basis for location shortfalls.

TDS TELECOMMUNICATIONS LLC

By:

Carol E. Matthey
MATTEY CONSULTING LLC
5904 Devonshire Dr.
Bethesda, MD 20816

Matthew S. DelNero
Thomas G. Parisi
COVINGTON & BURLING LLP
One CityCenter
850 10th St., NW
Washington, D.C. 20001
(202) 662-6000

*Counsel for TDS Telecommunications
LLC*

July 19, 2019