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
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259
	)	
To: Wireline Competition Bureau	)	

PETITION FOR CLARIFICATION OR RECONSIDERATION

Crocker Telecommunications, LLC. ("Crocker") has carefully reviewed the Commission's May 26, 2016 Report and Order and Further Notice of Proposed Rulemaking, FCC 16-64, and respectfully petitions the Commission to clarify, and if necessary reconsider, certain aspects of the Connect America Fund Phase II Reverse Auction and subsidy program, as discussed below.

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SCORING AND WEIGHTING

In Paragraph 214, FCC 16-64 CAF PH II Auction, the Commission asks "*are there sources of objective metrics or data sources to inform the specific numerical weights to apply to bids?*" The currently proposed additive formula (bid/reserve price + or – weights) creates difficulty correlating those weights with other variables. A multiplicative formula (bid/reserve price * weight(s)) would resolve this difficulty, but potentially add time to the auction rulemaking process as further comments are sought. If a multiplicative formula was used, weights could be perfectly correlated to Download (or Upload) speeds. This could, for example, yield a weight of 10 (Mbps)/1000 (Mbps) to tier 1 (1%), 25/1000 to tier 2 (2.5%), 100/1000 (10%) to tier 3 and 1000/1000 (100%) to tier 4. However, we fully recognize that such a new weighting system would be a side-step from that which is contemplated in the current FNPRM.

To improve the currently proposed weighting system, if the Commission does not want to face continued CAPEX support and funding needs to improve the rural connectivity options, there should be a strong bias in favor of the most robust 'future-proof' option. For a decade, scholars, technology companies, political advocates, and others have been touting fiber as the only 'future-proof' option. Costs on a per home passed basis in **rural** America currently average ~$4,000 for a FTTH solution. Spread over 10 years, FCC support at the current average level per location could theoretically pay almost 100% of the capital cost of 'future-proofing' rural America (without the need for significant CAPEX funds in the future). The only way to guarantee that bidders invest all of the money they receive, rather than simply using it for improving per subscriber profitability, is to develop weighting strongly in favor of this type of future-proof solution.

Given that the FCC has set the baseline performance tier of 25 MBPS, we therefore request weightings of 0 in the baseline tier and -50 in the minimum performance tier (to ensure that it remains the 'minimum'). The above-baseline and gigabit performance tiers may use similar technologies, but Gigabit offers a decade (or more) future-proofing over the above-baseline tier. Therefore, we request weights of 100 in the above-baseline tier and 200 in the gigabit tier. In Paragraph 212 of FCC 16-64, the Commission notes that "*In designing weights to achieve this goal, we do not predetermine which bidder will win if competing head to head with another bidder for a given service area*". The weights we propose support this assertion, that for the same service tier and for the same geography, the lowest bid will (and should) win. To be clear, we recognize that these weights would substantively shift the balance toward wireline or point-to-point wireless based options (in contested census blocks). We hope that the FCC continues to agree with its policy (Paragraph 208, FCC 16-64) of focusing on the longest lived use of federal funds in the case of competitive bids – and not solely the lowest price. Consumers in rural America should receive the benefits from innovation and advances in technology and there is value in services that exceed the baseline requirements.

Additionally, since the source of the funds stems from the Universal Service Charge, there should be a substantial bias towards low latency broadband services that enable voice services. Carriers receiving support funding should be able to support fully duplex voice as well as broadband services. In areas where there are low latency and high latency bids competing within the same service tier, we strongly advocate that the low latency bid wins, unless there is an overwhelming price differential. We therefore request a bid weighting of -100 for the high latency category (as a whole, in all 4 service tiers).

Carriers that support the Commission's goal of accepting the vast majority of locations within a state should receive a favorable bid weighting over those taking funds solely for network edge-outs. Though the Commission expressly rejected the NY state request that funds be apportioned (and saved) by state, there are several public policy benefits of continuing to enable analysis and validation of the opportunity and fund disbursements on a state level – including reduced overhead and accounting costs. We think such a weight (which is currently not detailed in the Order) would support the FCC's goals in a very tangible way. A weight of 100 (regardless of service tier) could achieve such a goal for CAF Auction applicants bidding on 75% or more of funded locations within a state. However, we only advocate for this weight if our other requests are accepted – both the latency and service tier related proposals.

Finally, In Paragraph 218 the FCC recognizes that projects in states that contribute to these efforts (notably Massachusetts and New York) are more likely to succeed. We therefore request a nominal weight of 50 for census block groups in states that have already established rural broadband funding mechanisms. This weight would ensure that for the same type of project at a similar bid, those states receive funding first.

LOCATION VALIDATION

As stated in Paragraph 46, FCC 16-64, we recognize that support will be "*authorized on a state-level basis, and the geographic areas in a state that are funded will represent the service territory*" for the recipient of the awarded support. We also acknowledge the responsibility, as cited in Paragraph 47, FCC 16-64, "*for undertaking the necessary due diligence in advance of bidding to identify particularly problematic census blocks*" while we are preparing our bids. But, in advance of an award of support for our package bid (or bids), we are requesting the opportunity to, following our award and our subsequent detailed review of locations subject to support in each funded location, "*to promptly bring any situations involving a known disparity between the number of model determined locations and the actual number of locations in a state to the Commission's attention while developing our network plans in that first year*." (see footnote 88, December 2014 Connect America Fund ("CAF") Phase II Report and Order).

As reported to the Commission on December 30, 2015, Frontier identified discrepancies between the number of funded locations and the actual number of locations that they were to serve in the census blocks in their service territories. As such, they requested that their support funding levels be adjusted on a pro rata basis accordingly. From the information available on the FCC website for the CAF Phase II Price Cap submissions, it appears that Frontier was the only recipient of model-based support to provide the FCC with a detailed submission on the discrepancies. That may be due to the fact that Frontier made their election to accept the funding six months prior to the final date for accepting the model-based support. Applicants who made their election in August 2015 were limited to four months plus a few weeks to complete their reviews.

To provide the Commission with a date certain timeline, we request that such an adjustment or validation be submitted within six months following notice of the award for the funded census blocks following the competitive bidding auction. This timeline to provide a formal response is comparable to the timeline that Frontier had to present their detailed review after acceptance of their model-based support in June 2015.

Any change in the number locations that may result in a reduction in the support funding due to the identification of fewer locations in the service territory in the state should be exempt from any penalties if the recipient of CAF Phase II competitive bid support provides a formal notice of the funding discrepancy on our before the formal submission date for any discrepancies.

Conversely, if the validation of locations in the funded census blocks results in an increase in the locations to be served, this increase should be complemented by either an increase in the support funding on a pro rata basis of the bid rate times the increase in the number of funded locations for the term of the support or that the service provider shall have the opportunity to reduce the number of locations to be served to 100% of the funded locations provided for in the competitive bid auction for the funded census blocks, if the recipient of CAF Phase II competitive bid support provides a formal notice of the funding discrepancy on our before the formal submission date for any discrepancies.

Furthermore, should the Commission identify an administratively acceptable process for identifying unserved locations in partially served census blocks, we would accept the possibility to substitute unserved locations in these partially served census blocks for locations within funded census blocks.

Finally, using subscriber and penetration information in calculating weights and costs will substantively complicate the auction process. Determining "fair" subscription levels for census block groups will prove challenging and could bias the auction back toward the incumbents who rejected funding in the first round. This is true even if comparing particular blocks or block groups to the 477 subscribership data for the same Tract. These are unserved locations in many instances because they are less economically feasible (which includes different construction costs, demographics, income levels, propensity to buy services, etc.) We therefore request that the existing language be adopted that uses the CACM cost model and not any estimated subscription level.

LETTER OF CREDIT

The current letter of credit (LoC) requirements represent a challenge for non-incumbent, small rural focused enterprises seeking to expand existing networks in rural America. The Order mandates a construction schedule, and we strongly advocate that the LoC requirements be set to match the outstanding, but not yet deployed, construction requirements (first approach) OR even more effective, set the LoC requirement based on the build accomplished/certified (second approach). Since the FCC has required certification of coverage accomplished to ensure compliance, this data will already be collected.

First approach:

Year	1	2	3	4	5	6
Location Coverage Required	0%	0%	40%	60%	80%	100%
Minimum LoC: (1-Required Coverage) * Total Years	(1-0%)*1	(1-0%)*2	(1-40%)*3	(1-60%)*4	(1-80%)*5	(1-100%)*6
LoC (% of annual disbursement)	100%	200%	180%	160%	100%	0%

Second approach:

Year	1	2	3	4	5	6
EXAMPLE Location Coverage ACHIEVED/CERTIFIED	0%	14%	61%	92%	100%	100%
Minimum LoC: (1-Required Coverage) * Total Years	(1-0%)*1	(1-14%)*2	(1-61%)*3	(1-92%)*4	(1-100%)*5	(1-100%)*6
LoC (% of annual disbursement)	100%	172%	117%	132%	0%	0%

While we recognize the Commission has suggested using the same approach as for Mobility Fund Phase I and Tribal Mobility Fund Phase I, as stated in paragraph 123 of FCC 16-64, where an entity is required to "*maintain a letter of credit valued at the support that had been disbursed until the Commission verifies that the build-out has been completed*," we feel this is an unnecessary burden to place on small businesses, and the letter of credit should scale with the actual construction schedule. At the very least, the Commission should verify build completion annually, rather than at the end of the project (Approach 1) and decrease the required credit accordingly.

ACCELERATED PAYMENTS

In Paragraph 50, FCC 16-64, the Commission has clearly noted the decision to decline to adopt an accelerated payment option for recipients of Phase II support awarded through the competitive bidding process.

We understand and support the policy of avoiding "dramatic swings in the contribution factor." A key concern that has been noted was whether to Commission could implement accelerated payments within the annual available budget.

The USF is approximately an $8.8B annual budget. When the model-based support was announced, the annual funding was $1.675B. Of that funding, $1.5B was accepted for the six-year period of support. Accelerated payments for annual funding of $1.675 represented what could have been a catastrophic increase in the USF Contribution Factor.

However, that $1.675B in annual support was reduced to $175M in annual support due to the fact that

$1.5B in annual funding was accepted. In essence, approximately 10% of the annual model-based support was not accepted.

The annual budget was increased to $215M annually to address the locations that were not included in the model-based support option. With a total annual budget of $215M relative to the total USF budget of $8.8B, the disruptive or catastrophic potential of an accelerated payment is significantly reduced.

If there is an accelerated payment requirement for approximately $50M in annual support, the increase in the quarterly USF contribution factor would be an additional 0.6% (50/8800) added to the quarterly USF contribution factor, if all of the increase in accelerated payments occurred in the same quarter. Historically, since Q1 2011, the USF Contribution Factor has ranged from a low of 15.1% to a high of 18.2%. This is an increase in support that will enable service providers to provide service to all locations prior to the established six-year buildout. It is a manageable change and it does not recognize inflow from accelerated USF contributions for services like VoIP over these funded rural networks, which has a safe harbor percentage of 64.9%. Any inflow from USF contributions from services like VOIP will offset some of the increase in accelerated payment support.

We respectfully request the Commission reconsider their decision to not support an accelerated payment option.

A decision by a service provider to deploy a Tier 3 or Tier 4 performance service is a challenge for the funding that has been identified. In the review of the CACM Model Methodology, CostQuest Associates Inc. has stated that "*CACM provides specific details at the Census Block level, for both (1) the forward-looking cost to deploy and operate carrier grade Voice Over Internet Protocol (cVoIP) service and a broadband-capable network and (2) universal service support levels for that voice and broadband-capable network.*" While the CACM has specific details for the forward looking cost to deploy and operate cVoIP and a broadband-capable network, the universal support that is being offered does not provide the full funding that is required to deploy and operate a broadband-capable network.

The Commission has been very clear on the objective to distribute support funds in price cap areas where the incumbent ETC declined to make a state-level commitment in such a way as to bring advanced services to as many consumers as possible, as quickly as possible, in **areas where there is no economic business case for the private sector to do so**. The accelerated payment of support provides an economic incentive to accelerate the deployment schedule.

We accept the requirement to provide advanced telecommunications and information services that are reasonably comparable to those services in urban areas, at reasonably comparable rates. However, while one or more broadband and voice services must be priced at rates reasonably comparable to urban rates, the costs to serve rural customers continue to be higher than the costs to serve urban customers.

Accelerated payments will enable an accelerated buildout of advanced broadband-capable networks for many unserved locations.

The accelerated payment should be restricted to Tier 3 and Tier 4 performance tiers.

COMPARABLE PRICING BENCHMARK

Concerning the comparable pricing benchmark requirements as they are stated in Paragraph 121 of the December 2014 Connect America Fund Report and Order, the broadband-capable network will support IP services that are broadband-enabled. As such, the basic product is broadband at a specified speed and usage volume and latency. Voice services are most often provided using VoIP. Those services are not provided as a standalone voice service as they require a broadband data connection. The requirement cited in Paragraph 121 of the December 2014 Connect America Fund, Report and Order: "*Recognizing that high-cost support recipients are permitted to offer a variety of broadband service offerings as long as they offer at least one standalone voice service plan and one service plan that provides broadband that meets our requirements*" changes the focus of the auction from broadband-enabled services back to the age of circuit-switched telephony.

We respectfully request the Commission clarify that broadband service providers need to offer only broadband as a standalone service, and that VoIP is a broadband-enabled service offered in conjunction with a standalone broadband service (not a standalone service).

CONCLUSION

The support funds that will be allocated during this program are sufficient to allow for the deployment and operation of truly future-proofed, fiber based infrastructure that will bring these unserved regions advanced service options comparable to those available in metropolitan areas, transforming their economies and quality of life. We strongly urge the Commission to adopt rules for the CAF PH II auction that will allow for the deployment of the most robust and future proof physical infrastructure possible, recognizing that the infrastructure enabled by the USF support funds should be capable of delivering both broadband and voice services, and be capable of scaling in speed and performance for decades to come.

Respectfully Submitted,

Crocker Telecommunications, LLC.

By:______________________________

Matthew Crocker
Managing Partner - Crocker
Telecommunications, LLC.

Dated: July 18, 2016