

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Petition for Clarification or Declaratory Ruling	)	DA 19-579
on the Definition of Location for Home Offices	)	
Under the Connect America Fund-Alternative	)	
Connect America Cost Model	)	

**REPLY COMMENTS OF  
NORTHEAST IOWA TELEPHONE COMPANY AND  
WESTERN IOWA TELEPHONE ASSOCIATION**

Northeast Iowa Telephone Company (“NEIT”) and Western Iowa Telephone Association (“WIATEL”) (NEIT and WIATEL collectively, the “Petitioners”), hereby submit these Reply Comments with regard to the Petitioners’ request for Clarification or Declaratory Ruling (“Petition”) on the Definition of Location for Home Offices Under the Connect America Fund-Alternative Connect America Cost Model (“A-CAM”).<sup>1</sup> The comments filed in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice are unanimous in their support for the Petition. The Petitioners, having accepted A-CAM offers, filed their Petition out of concern that guidance issued by the Universal Service Administrative Company (“USAC”) on location reporting<sup>2</sup> “runs counter and actually contradicts Commission’s Orders

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<sup>1</sup> See Public Notice, *Comments Sought on Petition for Declaratory Ruling of Northeast Iowa Telephone Company and Western Iowa Telephone Association*, WC Docket No. 10-90, DA 19-579 (rel. June 20, 2019) (“Public Notice”).

<sup>2</sup> USAC guidance states that “[f]or a carrier to count a business run out of a house or a business run out of a barn, shed or other structure on the property, there must be separate facilities (drop/line) and separate equipment (e.g., modem) and the business must separately subscribe (get its own bill) to at least the minimum speed required.” USAC HUBB Frequently Asked Questions (“FAQ”), <https://www.usac.org/hc/faq/default.aspx>.

and [Wireline Competition Bureau] WCB Guidance.”<sup>3</sup> Without any opposing comments, the Commission’s path is clear – it should immediately clarify USAC’s Frequently Asked Questions and treat home-based businesses consistent with its rules.

Specifically, the Petitioners maintain that “[a]ctual subscription to broadband services has never been a requirement for meeting A-CAM deployment obligations,” and that “[s]ection 54.308 of the Commission’s Rules requires only that A-CAM recipients offer broadband services to the defined number of eligible locations.”<sup>4</sup> NTCA, along with the Iowa Communications Alliance, the Minnesota Telecom Alliance, and the Wisconsin State Telecommunications Association (collectively the “Alliance Commenters”) agree with the Petitioners that an actual subscription requirement cannot be found in the Commission’s Rules and Orders.<sup>5</sup> Similarly, ITTA claims that the requirement that a home-based business “*already* have separately subscribed in order to be counted separately from the residence goes far beyond the Commission’s broadband service availability definition” and that “[i]t is also unreasonable.”<sup>6</sup> Finally, WTA agrees that USAC’s guidance “appears to contradict the Commission’s ‘offer of service’ and ‘service within 10 business days’ principles and to substitute instead a requirement

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<sup>3</sup> Petition at 2.

<sup>4</sup> Petition at 3. Footnotes omitted. *See also* Public Notice, *Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations*, WC Docket No. 10-90, DA 16-1363 (rel. Dec. 8, 2016) and 47 C.F.R. § 54.308.

<sup>5</sup> *See* Comments of NTCA-The Rural Broadband Association at 2 (filed July 10, 2019) (“NTCA Comments”) and Comments of the Iowa Communications Alliance, the Minnesota Telecom Alliance, and the Wisconsin State Telecommunications Association at 2 (filed July 10, 2019) (“Alliance Comments”).

<sup>6</sup> Comments of ITTA—The Voice of America’s Broadband Providers, at 2 (filed July 10, 2019) (emphasis in original) (“ITTA Comments”).

that separate service must actually be ordered, subscribed and provided to a co-located home-based business before it can be counted as an additional ‘location’.”<sup>7</sup>

In their Petition, the Petitioners also objected to USAC’s guidance that there must be separate facilities and separate equipment in order to count home-based businesses.<sup>8</sup> WTA agrees, adding that USAC’s guidance “goes beyond the scope of its administrative authority by purporting to require actual separate drops or lines, separate subscriptions and separate bills for businesses run out of barns, sheds or other structures on a property.”<sup>9</sup> Likewise, ITTA maintains that the “separate facilities” requirement “runs counter to one of the ‘core principles’ of the high-cost universal service support reform that the Commission has been implementing since 2011, ‘to ensure that support is provided in the most efficient manner possible.’”<sup>10</sup> NTCA urges the Commission to “adhere to its original rules and orders,” noting that requiring a separate drop/line in order for a home-based business to count “would result in either inaccurate location counts or a much higher cost to providers, or possibly both.”<sup>11</sup> Importantly, the Alliance Commenters warn that “[a]pplying a separate, stricter standard that includes actual subscription and additional facilities only to these kinds of locations [home-based businesses] ... risks leaving out many kinds of locations that the High Cost universal service program is intended to help.”<sup>12</sup> The Petitioners agree.

With regard to adherence with existing FCC Rules and Orders, the Petitioners agree with WTA that “USAC has no right or power to supersede or modify such Commission or Bureau

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<sup>7</sup> Comments of WTA—Advocates for Rural Broadband, at 2 (filed July 10, 2019) (“WTA Comments”).

<sup>8</sup> Petition at 5.

<sup>9</sup> WTA Comments at 4.

<sup>10</sup> ITTA Comments at 3.

<sup>11</sup> NTCA Comments at 4.

<sup>12</sup> Alliance Comments at 3.

determinations by FAQ or other device” and again that the “USAC FAQ also goes beyond the scope of its administrative authority.”<sup>13</sup> In fact, allowing the USAC HUBB FAQ to supersede FCC Rules and Orders would be tantamount to a *de facto* rulemaking, in violation of Section 553 of the Administrative Procedures Act.<sup>14</sup>

The Commission can rectify the inconsistency of the USAC HUBB FAQ very simply, however, while also ensuring that only *bona fide* home-based businesses are counted as locations. Specifically, the Petitioners propose the following revised answer to the question: “How should a carrier report deployment at a residence that also has a home-based business within the same structure?”

- A. A carrier receives credit for and must report ~~the house~~ a residence or home-based business as a served location regardless of whether the ~~house~~ residence or the home-based business subscribes to the service. For a carrier to count a business run out of a house or a business run out of a barn, shed or other structure on the property, there must be separate facilities (drop/line) and separate equipment (e.g., modem) and the business must separately subscribe (get its own bill) to at least the minimum speed required within the same physical structure of an eligible location as a separate location, the carrier must certify that this home-based business is identified by or registered with a governmental agency and be prepared to share such indication with USAC upon request. The residence and home-based business shall be considered served if the carrier has the ability to deliver service to that residence or home-based business within ten (10) business days of a request.

The record in this proceeding is unambiguous. The Commission should immediately clarify USAC’s HUBB FAQ to make it consistent with existing FCC Rules and Orders,

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<sup>13</sup> WTA Comments at 3-4.


<sup>14</sup> See Petition, n. 12. See also 5 U.S.C. § 553.

eliminating any requirement that limits carriers to counting only home-based businesses that have already separately subscribed to service and that have separate, duplicative facilities.

Respectfully submitted,

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