

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

In the Matter of	)	
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	
Connect America Fund	)	WC Docket No. 10-90

**COMMENTS OF JOINT RDOF COMMENTERS**

The Joint RDOF Commenters<sup>1</sup> hereby submit these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) August 2, 2019 Notice of Proposed Rulemaking wherein the FCC establishes the Rural Digital Opportunity Fund (“RDOF”).<sup>2</sup> The RDOF will build on the success of the 2018 Connect America Fund (“CAF”) Phase II auction by committing at least \$20.4 billion over the next decade to support high-speed broadband networks in rural America, and the RDOF NPRM seeks comment on the proposed framework for the program.<sup>3</sup> Specifically, these comments focus on the FCC’s explicit request for feedback regarding whether the FCC should include in the RDOF Phase I auction rate-of-return (“RoR”) areas receiving Legacy Universal Service Fund (“USF”) support that appear to be entirely or almost entirely overlapped by an unsubsidized competitor, based solely upon Form 477 broadband availability data.<sup>4</sup> The Joint RDOF Commenters argue that (i) Legacy RoR areas that are entirely or almost entirely overlapped by an unsubsidized competitor should not be included in the RDOF reverse auction since, unlike price cap carriers, Legacy RoR carriers continue to

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<sup>1</sup> The Joint RDOF Commenters include: ITS Telecommunications Systems, Inc. dba ITS Fiber (“ITS”); Winn Telephone Company (“Winn”); and Lipan Telephone Company (“Lipan”).

<sup>2</sup> See Notice of Proposed Rulemaking on the Rural Digital Opportunity Fund and Connect America Fund, WC Docket No. 19-126 and 10-90, para. 47 (rel. Aug. 2, 2019) (“RDOF NPRM”).

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

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

have federal Eligible Telecommunications Carrier (“ETC”) obligations to offer voice and broadband to all locations within their study areas, as well as state Carriers-of-Last-Resort (“COLR”) obligations; (ii) if the FCC does decide to include Legacy RoR areas that are entirely or almost entirely overlapped by an unsubsidized competitor in the RDOF reverse auction, then it should not include them in the RDOF Phase I auction, which will depend on unreliable Form 477 data, and instead should wait until the RDOF Phase II auction when more accurate data reporting tools and a crowdsourcing mechanism will be in place; and (iii) should the FCC decide to include Legacy RoR areas in the RDOF reverse auction, it should establish a robust challenge process that rightly places the burden on the unsubsidized competitor.

**I. LEGACY ROR CARRIERS CONTINUE TO HAVE PREEXISTING ETC AND COLR OBLIGATIONS TO OFFER VOICE AND BROADBAND TO ALL LOCATIONS IN THEIR STUDY AREA**

The Joint RDOF Commenters strongly oppose including Legacy RoR areas that are entirely or almost entirely overlapped by an unsubsidized competitor in the RDOF Phase I auction since it would place individuals and businesses in rural areas at risk of losing access to voice and broadband services. In general, reverse auctions, such as the RDOF, are designed for price cap carriers.<sup>5</sup> The USF framework that the FCC established for price cap carriers provides support to price cap carriers that have been granted limited forbearance from ETC requirements

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<sup>5</sup> See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Inter-carrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order and/or FNPRM*); *aff’d sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). (“2011 USF/ICC Transformation Order”)

to offer voice and broadband services to large portions of their study areas.<sup>6</sup> Specifically, the FCC has granted limited forbearance to price cap carriers:

“from enforcing a federal high-cost requirement that price cap carriers offer voice telephony service throughout their service areas pursuant to section 214(e)(1)(A) in three types of geographic areas: (1) census blocks that are determined to be low-cost, (2) all census blocks served by an unsubsidized competitor, as defined in the Commission’s rules, offering voice and broadband at speeds of 10/1 Mbps to all eligible locations, and (3) census blocks where a subsidized competitor – i.e., another ETC – is receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations.”<sup>7</sup>

Conversely, the USF framework that the FCC established for Legacy RoR carriers only provides support to RoR carriers that serve the entire study area, including the five-year buildout requirements that are study-area wide.<sup>8</sup> Legacy RoR carriers’ ETC obligations to continue serving the entire study area have multiple ramifications, including the continued enforcement of state COLR obligations and impacts on Legacy RoR carriers’ decisions regarding where to invest and deploy broadband. This is in stark contrast to price cap carriers’ discrete ETC obligations at the census block level.<sup>9</sup> These limited obligations for price cap carriers are what have allowed the existence of multiple ETCs in a price cap carrier’s study area, as evidenced by the creation of the CAF Phase II auction and now the RDOF reverse auction.

Accordingly, if the FCC were to include Legacy RoR carriers in the RDOF, the FCC would be imposing an entirely different USF framework on these carriers, which would have catastrophic consequences. For example, to be consistent with the RDOF Phase I framework, a RoR study area would be carved up by census blocks and only those census blocks that lack 25/3

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<sup>6</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 15644 at para. 51 (Dec. 18, 2014) (footnotes omitted). (“Forbearance Order”); see also 47 C.F.R. § 54.201(d)(3).

<sup>7</sup> *Id.*

<sup>8</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., FCC 16-33, at paras 167-168, (Mar. 30, 2016). (“2016 Rate-of-Return Reform Order”).

<sup>9</sup> See *Forbearance Order* at para. 51.

Mbps, based on Form 477 data, would be included in the auction. Given that a Legacy RoR carrier must be entirely or almost entirely covered by an unsubsidized competitor in order to be subject to a reverse auction, it is likely that only a few blocks, if any, would be available in the auction. This is especially likely given that RoR carriers may already offer 25/3 Mbps in the small number of blocks not covered by the competitor, if the study area is not 100% covered. Under such a scenario, the RoR carrier that has been serving the study area in its entirety, through its study area-wide ETC and COLR obligations, will either only receive support for a few discrete census blocks or no support at all. What will happen to the ETC obligations for the Legacy RoR carrier in areas that no longer receive support? Will the carrier be relieved of ETC voice obligations as price cap carriers have been? If not, or if state COLR obligations continue to apply, how will these carriers continue to maintain the networks which they have deployed in reliance upon continued USF support? How can future investments to deploy higher speeds of broadband be made when the support has been severely curtailed or eliminated?

For example, ITS is a RoR carrier, required to make broadband services available to an established number of people living in the high-cost, rural community of Indiantown, Florida in exchange for funding. ITS has fully complied with the requirements of its federal ETC obligations and state COLR obligations. Based upon the sufficient and predictable USF support that it has received for decades, ITS has made significant investments over the years to fulfill its duties to these communities, with the understanding that it will continue to receive support. Utilizing the funding provided by the FCC's Legacy RoR USF mechanism, ITS has deployed fiber which reaches 75% of the locations in its study area and offers speeds of 1 Gbps symmetrical.

ITS does not have an unsubsidized competitor that serves its entire study area or anywhere close to the entirety of its study area. However, as explained in further detail below, a fixed wireless provider has submitted Form 477 data in which it claims that it can provide 100/100 Mbps broadband service to residences and 1000/1000 Mbps to businesses in every census block within ITS' study area, even though the provider admits that it does not offer service to any residences in ITS' study area. Accordingly, were the FCC to include RoR carriers that are entirely or almost entirely covered by an unsubsidized competitor, ITS would be subject to a reverse auction structured to only provide support in areas where Form 477 data indicates 25/3 Mbps is not present. This would mean that ITS' Legacy RoR support, which is currently used to maintain and expand ITS' voice and fiber network to residences and businesses on a study area-wide basis, would be repurposed to a few census blocks even though no viable unsubsidized competitor offers service to individuals residing in the study area. This would be detrimental given that ITS will have an additional 680 locations to build out with 25/3 Mbps in the next five years, with the new FCC build-out requirements for Legacy carriers.<sup>10</sup> If the reverse auction is mandated for RoR service areas, ITS' buildout would be greatly reduced or even stopped. Moreover, ITS provides service in a hurricane-prone area and has built its copper and fiber network underground so that all of ITS' voice and broadband services continue to work when other carriers, especially fixed wireless carriers, have lost service and require weeks to restore broadband and voice services to customers.

Like ITS, Winn and Lipan have found themselves in similar situations. Both Winn and Lipan are also RoR carriers that are required to make broadband services available to an

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<sup>10</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Further Notice of Proposed Rulemaking, and order on Reconsideration, FCC 18-176, 32-35, at paras. 101-112 (Dec. 13, 2018) ("December 2018 Rate-of-Return Reform Order").

established number of people living in the high-cost, rural communities of Michigan and Lipan, Texas, respectively, in exchange for funding. Winn and Lipan have fully complied with the requirements of their federal ETC and state COLR obligations and have made significant investments to fulfill their duties to the communities they serve, with the understanding that they will continue to receive support through the FCC's Legacy RoR USF mechanism. Winn has deployed fiber to every remote location in its study area and has completed its 10/1 Mbps build-out obligation for Legacy support, prior to the new Legacy build-out obligation of 25/3 Mbps. While Winn does have some customers on VDSL who currently subscribe to greater than 20 Mbps broadband, the company is still evaluating how to complete its 25/3 Mbps deployment obligation. Additionally, Lipan has deployed fiber which reaches 40% of the locations in its study area and offers speeds of 50 Mbps.

Both Winn and Lipan also do not have any unsubsidized competitors serving their entire study areas or anywhere close to the entirety of their study areas. Like ITS, Winn and Lipan would also be subject to a reverse auction structured to only provide support in areas where Form 477 data indicates 25/3 Mbps is not present, if the FCC decided to include RoR carriers that are purportedly entirely or almost entirely covered by an unsubsidized carrier in the RDOF Phase I reverse auction. Consequently, the Legacy RoR support that Winn and Lipan use to maintain and expand their networks would be reduced to a few census blocks, or potentially eliminated, even though no real unsubsidized competitor offers service in their study areas.

Winn's case is even more alarming than that of ITS, given that Winn had two fixed wireless providers submit flawed Form 477 data, with one claiming that it can deliver anywhere from 25/10 Mbps in some areas, and up to 50/50 Mbps in others. Winn knows from its own customers and investigations that the fixed wireless providers' claims are simply not true. Winn

would suffer catastrophic consequences if Winn's six square mile study area were to be included in the RDOF. Nearly all of Winn's customers would be left without access to voice and broadband services since Winn has ETC and COLR obligations and is, therefore, the only provider truly situated to provide service in the area. The possibility that Legacy RoR areas may be included in the RDOF reverse auction has backed Winn into a corner and made it difficult for the company to plan its 25/3 Mbps Legacy build-out obligation deployment strategy. On one hand, Winn is required to increase speeds and continue investing in the network/ However, Winn risks losing everything if its study area is subjected to the RDOF reverse auction. Under these uncertain conditions, it is difficult to secure capital for investment and assure customers that they will get faster speeds in the near future.

Finally, Lipan was put at risk when another fixed wireless provider reported on its Form 477 that it can deliver 30/30 Mbps to residential locations in Lipan's ILEC study area and other parts of Texas, despite admitting that it cannot provide service at those speeds, or perhaps at all, to residents in Lipan's study area. Lipan depends on support to provide quality services at affordable prices to their customers. Their competitors admit to not being able to serve all of Lipan's customers; these customers would lose any reliable internet option if Lipan ceases to exist. Lipan's future plans include providing fiber to the home for customers, which would be impossible if support is lost.

As demonstrated in the examples above, subjecting Legacy RoR areas to the RDOF reverse auction would threaten RoR carriers and could force them to reduce broadband deployment, curtail existing maintenance and operations, reduce or terminate services, and default on construction loans. This would not only hurt the RoR carriers, that have invested significantly over *decades* to serve these communities, but also, more importantly, the

communities themselves would experience the loss of new and improved broadband services. Subjecting Legacy RoR areas to the RDOF reverse auction would be in stark contrast to the “sufficient and predictable” USF support as required by Section 254 of the Communications Act,<sup>11</sup> and would only lead to additional digital divide situations. This is not what the Joint RDOF Commenters desire for the communities they have served for decades. Furthermore, this is not what the FCC or Congress seeks in having adequate broadband available for every American.

Reverse auctions, such as the one the FCC proposes in the RDOF, are designed for price cap areas where no provider offers 25/3 Mbps. Reverse auctions are not for smaller, rural, high-cost Legacy RoR areas where a RoR carrier made a long-term commitment to focus their time, energy, and investments to ensure that those residents and businesses are served with the required 25/3 Mbps deployment.<sup>12</sup> Including any Legacy RoR areas in the RDOF reverse auction would make it too easy to reduce or remove support from the RoR carriers that are dedicated to serving these areas. RoR carriers play an important role in the communities that they serve, providing jobs and critical communication services. In short, RoR carriers not only provide services to Legacy RoR areas but are committed to providing myriad public interest benefits to those communities.

## **II. WERE THE FCC TO PROCEED WITH INCLUDING ROR AREAS IN THE RDOF, IT SHOULD WAIT UNTIL THE RDOF PHASE II**

As demonstrated above, RoR carriers play a vital role in the rural communities they serve and have invested significantly to serve them. The Joint RDOF Commenters strongly argue

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<sup>11</sup> See 47 USC § 254.

<sup>12</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., FCC 16-33, at paras 23-26, (Mar. 30, 2016). (“2016 Rate-of-Return Reform Order”).



against including Legacy RoR areas in the RDOF Phase I auction, due in part because flawed Form 477 data will be used to determine whether a RoR area is almost entirely overlapped by an unsubsidized competitor, jeopardizing the support current RoR carriers receive and the communities they currently serve. The Joint RDOF Commenters believe that the FCC should not rely on flawed Form 477 data when making critical decisions regarding vital funding and support. In fact, the Joint RDOF Commenters have been working hard to identify Form 477 broadband deployment data that either has already impacted or has the potential to impact their USF revenue streams. The results of the Form 477 analysis have been troubling.

ITS was one of eight RoR carriers that did not receive an offer for model-based USF (A-CAM II) due to an unsubsidized competitor, a fixed wireless provider, submitting flawed Form 477 broadband deployment data showing nearly 100% overlap.<sup>13</sup> In examining all of the data, ITS discovered obvious anomalies in filings made by fixed wireless providers, where undisputed facts on the ground contradicted the Form 477 data submitted by the fixed wireless providers. Specifically, ITS was shocked when it discovered that a fixed wireless provider had reported over 25/3 Mbps broadband coverage in every census block within ITS' study area on its December 31, 2017 Form 477 filing, leading to the realization that ITS would now be subject to the FCC's new 100% overlap rule.<sup>14</sup>

ITS provides wireline ILEC voice and broadband services in Indiantown, Florida. ITS discovered that Brevard Wireless dba Florida High Speed Internet, a fixed wireless provider, had reported on its Form 477 that it can deliver 100/100 Mbps to residential and 1000/1000 Mbps to business customers not only in all census blocks within ITS's service area in Indiantown,

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<sup>13</sup> See *December 2018 Rate-of-Return Order*, at paras. 144-185. When ITS realized that it did not receive an offer for A-CAM II support, it deduced that it was one of the eight RoR carriers that had been showing nearly 100% overlap.

<sup>14</sup> *Id.*, at paras. 136-146.

Florida, but also throughout all portions of Martin County and several other counties in Eastern Florida. Florida High Speed Internet is located in Brevard County, 88 miles away from ITS' service area, and ITS is unaware of any Florida High Speed Internet antennas, towers or other equipment in ITS' service area. How is it possible that Florida High Speed Internet can deliver 100/100 Mbps in every census block in ITS' rural service area? Moreover, when ITS contacted Florida High Speed Internet's sales staff regarding its ability to serve the community, the sales representative unsurprisingly explained:

“We are primarily a commercial internet service provider, an alternative to a fiber optic connection. We do have some residential coverage and are willing to connect up homes in some of our service areas. Unfortunately, the location of your residence [in Indiantown] is not within the area we provide residential coverage.”

Furthermore, in an e-mail sent from ITS to the fixed wireless provider, asking about the fixed wireless broadband deployment data reported on the Form 477, Florida High Speed Internet would only state that it has active subscribers in census tracts in which Indiantown is located. Given the statements made by Florida High Speed Internet, there is no support for the claim that the company offers broadband service at reported speeds to residential subscribers in all of the census blocks within ITS' ILEC service area as it claimed in its Form 477 filing.

Winn was also one of eight RoR carriers that did not receive an offer for model-based USF (A-CAM II)<sup>15</sup> due to an unsubsidized competitor, a fixed wireless provider, submitting flawed Form 477 broadband deployment data showing nearly 100% overlap. Winn, which provides wireline ILEC voice and broadband services in Michigan, had an experience similar to ITS and would have its universal service support subject to a reverse auction due to flawed Form 477 data submitted by two fixed wireless providers on June 30, 2018. CMSInter.Net, LLC

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<sup>15</sup> Like ITS, when Winn realized that it did not receive an offer for A-CAM II support, it deduced that Winn was one of the eight RoR carriers that had been showing nearly 100% overlap.

claimed to be able to deliver anywhere from 25/10 Mbps in some areas and up to 50/50 Mbps, in others, while Crystal Automation Systems, Inc. claimed to be able to deliver lower speeds in Winn's ILEC study area. Both fixed wireless providers claimed to be able to deliver these services throughout Winn's entire ILEC study area. However, Winn knows from customers and its own investigations that it is not possible due to fixed wireless signals not reaching ILEC customers in low-lying, wooded areas or other areas obstructed from the fixed wireless providers' towers by geographic terrain. Moreover, when asked about specific addresses, the fixed wireless providers' sales representatives would respond with one of the following excuses: "we are not able to at this time due to upgrading systems"; "waiting on tower upgrades to be able to provide services to your area"; we are in an odd spot between towers with lots of trees"; or "we are out of range".

Finally, Lipan Telephone Company also risks having its universal service support subject to a reverse auction due to AMG Technology Investment Group dba NextLink, a fixed wireless provider, reporting on its December 2017 Form 477 that it can deliver 30/30 Mbps to residential locations in Lipan's ILEC study area and other parts of the state. NextLink's Form 477 data also claimed that it could provide broadband to business customers using "best effort" service in all of the blocks reported in its broadband deployment file. However, when the broadband service availability map provided on NextLink's website is reviewed, it is clear that it does not offer the same speed throughout its service area, including the area in which the company reports overlapping coverage with Lipan. Nevertheless, NextLink's Form 477 data indicates no differentiation in speeds throughout all of the census blocks. The fact that speeds vary throughout NextLink's service area is further supported by statements on NextLink's website such as the following:

“Internet rates reflect the ability to connect to our tower with a sufficient signal within 3 to 4 miles of your residence. Longer range equipment is available, as a \$10 addition to plans under 35 Mbps, if you are beyond the 3 to 4-mile range to the nearest visible tower...Service is limited to coverage area of NextLink wireless network via line of sight. Residential and Business plan speeds are burstable ‘Up to’ the particular plans maximum speed.”

Finally, when a Lipan employee contacted NextLink to inquire about service, the employee was told that 20 Mbps was the fastest available speed in the location in Lipan’s service area, which is where the employee lived, and that service may not be available at all due to obstructions.

The FCC’s 100% or “slightly less than 100%” overlap policy will dictate whether a Legacy RoR area may be subject to the reverse auction mechanism.<sup>16</sup> As evidenced here, potentially flawed Form 477 data will be used to determine whether an area is almost entirely overlapped by an unsubsidized competitor. Too much is at risk if Legacy RoR areas are included in the RDOF Phase I auction, given that the RoR carriers serving these areas are serving the most rural, high-cost and vulnerable communities. Therefore, the Joint RDOF Commenters strongly urge the FCC to not include Legacy RoR areas in the RDOF I auction given that it will rely on faulty Form 477 data, creating a possibility that extremely rural communities and customers will be **abandoned** based on wrong information and misrepresentations made by fixed wireless companies.

The Joint RDOF Commenters recognize that, for the RDOF Phase II reverse auction, the FCC has proposed to modify the Form 477 regime for reporting broadband availability by moving from the current census block-based approach to a framework based on the submission of polygon shapefiles, that represent the area where each provider actually makes broadband

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<sup>16</sup> See *December 2018 Rate-of-Return Order*, at paras. 136-146.

service available, and crowdsourcing, which allows the public to have input.<sup>17</sup> Given what is at stake for RoR carriers and the communities they serve, the Joint RDOF Commenters argue that there must be a source of verification of the data that is being submitted by all companies. Therefore, if any Legacy RoR areas must be included in a reverse auction, they should only be included in the RDOF Phase II auction or a subsequent auction that uses the polygon and crowdsourcing approach. This would allow the unsubsidized competitor to use more accurate data reporting tools and the public, including residents and businesses in the purported served areas, to have input as to where service is actually available via the proposed “crowdsourcing” review process.<sup>18</sup>

### **III. THERE MUST BE A ROBUST CHALLENGE PROCESS BEFORE ANY REVERSE AUCTION THAT INCLUDES ROR AREAS**

Regardless of which auction the FCC specifies for Legacy RoR areas – RDOF or a subsequent auction - a robust challenge process that rightly places the burden on the competitor must be established, as it has been in the past.<sup>19</sup> The Joint RDOF Commenters support the standard outlined in the *USF-ICC Transformation Order*, where the FCC adopted the old “100 percent overlap rule” which rightly placed the burden on the Form 477 filer to certify at a more granular level regarding voice and broadband offerings when the data was going to be used in a USF context. In that context, the FCC determined that if support for a RoR carrier were to be eliminated due to competitive overlap, the competitor must demonstrate that it offers voice and broadband to **all locations** within the study area.<sup>20</sup> The Joint RDOF Commenters agree with the

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<sup>17</sup> See Establishing the Digital Opportunity Data Collection, Modernizing the FCC Form 477 Data Program, WC Docket Nos. 19-195, 11-10, *Report and Order and Second Further Notice of Proposed Rulemaking*, FCC 19-79 (rel. Aug. 6, 2019)(“*Digital Opportunity Data Collection Order*”); see also RDOF NPRM at para. 47.

<sup>18</sup> *Id.*

<sup>19</sup> See *2016 Rate-of-Return Reform Order*, at paras 122-145.

<sup>20</sup> *Id.*

methodology of the previous 100 percent overlap rule challenge process.<sup>21</sup> Specifically, the Joint RDOF Commenters propose that eliminating or reducing support that RoR carriers receive warrants a challenge process that requires (i) a sufficient evidentiary showing by the unsubsidized competitor and (ii) a thorough FCC investigation in which members of the FCC go to the location in dispute and test the true reality of what is happening on the ground.

If the FCC were to include RoR areas in the RDOF Phase I auction, a challenge process would be crucial, given that broadband deployment to rural consumers is at stake and there is a clear history of fixed wireless providers overstating and grossly misrepresenting their broadband availability on their Form 477, causing RoR carriers to potentially lose support. However, even with the creation of more accurate data reporting tools, such as polygons and crowdsourcing, for the RDOF Phase II auction, a robust challenge process will still be needed given the potential for human error. It is crucial that RoR carriers and those residing in the purportedly served area to have an opportunity to dispute unreliable Form 477 data or even the more granular polygons before their critical USF is reduced or eliminated.

#### **IV. Conclusion**

One of the FCC's main goals has always been to build out broadband throughout rural America so that all citizens, no matter where they live, can take advantage of all the benefits of better broadband and telecommunication services. Including Legacy RoR areas in the RDOF Phase I auction and forcing RoR carriers, who are committed to serving their communities, to compete with unsubsidized competitive providers that lack a longstanding history of serving and benefiting rural communities served by RoR providers would be counter-intuitive to the FCC's ultimate goal. For all the reasons described herein, the Joint RDOF Commenters urge the FCC to

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<sup>21</sup> See *2016 Rate-of-Return Reform Order* at paras 122-145.

not include Legacy RoR areas in the RDOF reverse auction or, at a minimum, wait to include them in the RDOF Phase II auction when more accurate data reporting tools become available.

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Respectfully Submitted,

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