

**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
)	

**JOINT COMMENTS OF THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION, OFFICE OF CONSUMER
ADVOCATE AND THE OFFICE OF SMALL BUSINESS ADVOCATE**

On August 2, 2019, the Federal Communications Commission (Commission) released a *Notice of Proposed Rulemaking (NPRM)* proposing to establish a new rural digital opportunity fund that would target support to areas that lack 25 Megabits per second (Mbps) downstream and 3 Mbps upstream (25/3 Mbps) broadband access services and distribute \$20.4 billion in high-cost federal universal service fund (USF) support over 10 years using a two-phase reverse auction framework and seeking comments on this proposal.¹ Notice of the *NPRM* was published in the Federal Register on August 21, 2019. The Notice indicated that initial comments are due September 20, 2019, and reply comments are due October 21, 2019.² In accordance with this schedule, the Pennsylvania Public Utility Commission (Pa. PUC), the Pennsylvania Office of

¹ *In the Matter of Rural Digital Opportunity Fund et al.*, Notice of Proposed Rulemaking, and Notice of Inquiry, Docket Nos. WC Docket 19-126, (rel. August 2, 2019) (*NPRM*).

² 84 *Fed. Reg.* 43543.

Consumer Advocate³ (Pa OCA) and the Pennsylvania Office of Small Business Advocated (OSBA)⁴ (collectively “Joint Commenters) submit these initial comments to the *NPRM*.

As a threshold matter, these comments should not be construed as binding on the Joint Commenters in any present or future matter before the Pa. PUC. Moreover, the Joint Commenters’ position set forth in these comments could change in response to later events, including *Ex Parte* filings, legal proceedings, or other regulatory developments at the state or federal level. Lastly, the instant comments build upon and incorporate by reference prior filings submitted in the above-captioned dockets.

I. INTRODUCTION AND SUMMARY

The Commission proposes to establish the Rural Digital Opportunity Fund (RUDOF) as its next step in addressing the rural digital divide by connecting millions more rural homes and small businesses to high-speed broadband networks through a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition.

The Joint Commenters note that the Commission is continuing to work on the important issue of accurate broadband maps and data collection in another

³ The Pa OCA is an independent state office administratively within the Pennsylvania Office of Attorney General. The Pa OCA is empowered by Pennsylvania statute to represent the interests of consumers before the Pennsylvania Public Utility Commission (Pa PUC) and equivalent federal regulatory agencies and before state and federal courts. 71 P.S. § 309-01, *et seq.*

⁴ The Pennsylvania OSBA is an independent state agency administratively situated within the Pennsylvania Office of Community and Economic Development. The OSBA is empowered by Pennsylvania statute to represent the interests of small business consumers before the Pennsylvania Public Utility Commission and corresponding state and federal regulatory agencies and before state and federal courts. 73 P.S. §§ 399.41, *et seq.*

proceeding.⁵ In order to effectively address the rural digital divide issue, the Commission needs to have accurate and complete information as to where broadband service is and is not available in the United States. However, as of now, it does not have such information as the current Form 477 process and the maps it is relying on to distribute \$20.4 billion dollars of federal high-cost support from the Connect America Fund (CAF) do not give the Commission an accurate picture of where broadband is and is not deployed. Therefore, the Joint Commenters are concerned about moving forward with this auction proposal based upon flawed data. Nevertheless, the Joint Commenters also understand the need to proceed with the auction so that broadband service can be provided to Americans who lack it.

Regarding the proposal for the auction framework, the Commission proposes to target RUDOF support to areas that lack access to fixed voice service and broadband access of at least 25/3 Mbps in two separate stages. In Phase I, the Commission proposes to target census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps, including census blocks where carriers already have or are scheduled to deploy broadband at speeds of 10/1 Mbps. In Phase II, the Commission proposes to target census blocks that are later determined to be only partially served through the new Digital Opportunity Data Collection, as well as census blocks that receive no awards in Phase I of the proposed auction. The Joint Commenters oppose the Commission's proposal to

⁵ See *Establishing the Digital Opportunity Data Collection, Modernizing the FCC 477 Data Program*, WC Docket Nos. 19-195, 11-10, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 19-79 (adopted Aug. 1, 2019) (*Digital Opportunity Data Collection Order*).

include in Phase I of the RUDOF those census blocks having access to broadband at speeds of at least 10/1 Mbps.

For Phase I of the RUDOF, the Commission should prioritize communities that are unserved today (lacking at least 10/1 Mbps) over areas that already have 10/1 Mbps fixed broadband options but will be upgraded to 25/3 Mbps to meet the Commission's current definition of broadband. The Joint Commenters assert that it is not in the public interest for the Commission to equate as wholly "unserved" those census blocks that have access to at least 10/1 Mbps with those census blocks that have no access to any viable broadband service at all. Census blocks having access to broadband at 10/1 Mbps are not truly "unserved" areas. In order to effectively close the rural digital divide, the Commission must first prioritize those census blocks where there is no 10/1 Mbps broadband service. Under this approach, the Joint Commenters recognize that those unserved areas having no access to broadband service today may receive service at 25/3 Mbps before areas scheduled to receive 10/1 speeds will be upgraded to 25/3. However, the Joint Commenters believe this approach is warranted because it will target support to areas that lack 10/1 Mbps service where capital costs are likely to be greater than the incremental cost to upgrade 10/1 Mbps networks to 25/3 Mbps.

The Joint Commenters are concerned that commingling partially served census blocks (having access to at least 10/1 Mbps) with truly unserved census blocks during Phase I of the RUDOF would further exacerbate, and widen, the rural digital divide. The Joint Commenters believe that going forward with its proposal regarding Phase I of the RUDOF would solely benefit those carriers that have already constructed and built out

their broadband-capable networks due to their receipt of prior limited universal service funding support. Under this scenario, the Joint Commenters are concerned that these carriers may disregard the remaining totally “unserved” census blocks and seek the additional support awarded from the RUDOF only in those census blocks where they are already providing at least 10/1 Mbps.

It is the Commission’s responsibility to ensure that limited universal service funding is being used in an efficient and cost-effective manner. Accordingly, the Commission should amend its proposal regarding Phase I of the RUDOF and should only specifically prioritize the following census blocks during Phase I of the auction:

(1) census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (2) census blocks where a CAF Phase II auction winning bidder has defaulted; (3) census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier’s territory and identified by the rate-of-return carriers as one where they do not expect to extend broadband; and (4) census blocks and any other populated areas unserved by either a price cap or rate-of-return carrier and where there is no certified high-cost eligible telecommunications carrier (ETC) providing broadband service. By prioritizing these census blocks, the Commission would promote the efficient and responsible use of federal funds and institute efforts that protect the future sustainability of the CAF program by ensuring that unserved areas are addressed first before upgrading areas that have or will have 10/1 Mbps service to 25/3 Mbps.

Lastly, the Commission seeks comment on its proposals to adopt the same reporting requirements for the RUDOF that it had adopted for the recipients of the CAF Phase II model-based support and winning bidders in Auction 903. The Joint Commenters advocate for much-needed adjustments to this reporting framework if the Commission determines to impose these reporting requirements on RUDOF support recipients, which it should.

Any reporting requirements the Commission establishes for recipients should allow for the release of transparent, understandable and readily accessible information to state commissions. As acknowledged by the Commission, the USF is a federal-state partnership. Therefore, the reporting requirements should require recipients to provide information to state commissions that adequately confirms and validates that participating carriers are meeting their broadband deployment obligations.

Reporting requirements should confirm regulatory compliance not just for a specific, discrete class such as anchor institutions, but also for business and residential customers. As of now, the location and technology data submitted in the High Cost Universal Broadband (HUBB) portal is cumbersome and not user-friendly, especially as a means of verification. The Joint Commenters assert that information submitted in the HUBB portal should also be reflected in the information set forth in the Form 481, which can be filed under seal with state commissions and marked as proprietary and confidential. Accordingly, no valid rationale exists to preclude support recipients from being required to identify not only the number, names, and addresses of the community anchor institutions to which they newly began providing access to broadband service in

the preceding calendar year, but also the addresses of business and residential locations that now would have access to broadband due to their deployment efforts.

The Joint Commenters urge the Commission to require RUDOF support recipients to provide more detailed information on these issues so that the state commissions can properly analyze the deployment of broadband service in their respective state as a means to require accountability, be responsive to state constituencies, and assure that public investment dollars are being used to deliver intended results.

The Joint Commenters recognize that the Commission seeks additional input on matters including: (1) how to define the areas for the auction; (2) the process for establishing the reserve price for the auction; (3) oversight and responsibility for quality of service, network reliability, and ensuring compliance with commitments made by successful bidders following the auction; and (4) structure and content of the Short and Long Form filings, as well as other issues. However, the Joint Commenters' comments at this time focus on a limited number of issues. The Joint Commenters may address these and other issues in reply comments following review of the filed comments.

II. BACKGROUND

The Joint Commenters has always supported federal USF efforts, as underscored by the fact that Pennsylvania contributes approximately \$191.7 million more into the federal USF fund than its high cost carriers receive in federal support. But that “net-contributor” role does not mean that Pennsylvania does not itself need critical universal service support for voice and broadband. In 2011, the Commission undertook comprehensive reform of the federal high-cost USF program to ensure that robust,

affordable voice and broadband services are available to all Americans in areas that do not, or would not otherwise have broadband.⁶ The Commission created the CAF and adopted a new framework—CAF Phase II—for providing ongoing support in areas served by price cap carriers, including most of the large and mid-sized incumbent telephone carriers, to deploy broadband. CAF Phase II used a combination of “a new forward-looking model of the cost of constructing modern multi-purpose networks” and competitive bidding to deploy broadband.⁷ The CAF budget was set at no more than \$4.5 billion per year.⁸ Recognizing that over 80% of unserved locations at that time were in areas served by three price cap carriers, the Commission provided for up to \$1.8 billion to be spent annually to make broadband, both fixed and mobile, available to homes, businesses, and community anchor institutions.

In 2015, the Commission announced that CAF Phase II model-based support was accepted by certain price cap carriers over six years (2015-2020) to support the deployment of voice and broadband-capable networks in eligible unserved census blocks throughout their service territories. The total national aggregate amount of model-based CAF Phase II support was \$1.675 billion annually for six calendar years. Of that \$1.675 billion, five Pennsylvania price cap carriers accepted model-based CAF Phase II support in the annual amount of \$27,694,806 over six years (or an aggregate amount of

⁶ *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17667, ¶ 1 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

⁷ *Id.* at 17725, ¶ 156.

⁸ *Id.*

\$166,168,836) to deploy broadband service at 10/1 Mbps to 42,602 locations in various eligible census blocks located throughout their respective service territories.

Conversely, Verizon Pennsylvania LLC and Verizon North LLC (collectively Verizon) declined the CAF Phase II model-based support offer in the annual amount of \$23,270,817 over six years (or aggregate amount of \$139,624,902) to deploy broadband service at 10/1 Mbps to 64,620 locations in various eligible census blocks throughout its service territory in Pennsylvania.

In 2016, the Commission adopted rules to implement a competitive bidding process for CAF Phase II and finalized decisions regarding eligible areas, which included areas in which price cap carriers had declined model-based support and other areas unserved by robust broadband. In 2018, the Commission held Auction 903 and announced that the auction yielded 103 winning bidders, with the 10-year support amount totaling \$1.488 billion and covering 713,176 locations in 45 states. Five winning bidders in Pennsylvania were awarded annual support in the amount of \$5,683,106.09 (or an aggregate amount of \$56,831,609 million dollars) to deploy broadband service at various speeds ranging from 10/1 Mbps to 1 Gigabit per second (Gbps) and for 54,812 locations including where Verizon declined the model-based support but still leaving 29,739 locations unserved.

III. DISCUSSION

The Commission states that closing the digital divide has become one of its top priorities as broadband access is not a “luxury” but rather critical to economic opportunity, job creation, education and civic engagement in the 21st Century. As a

result, the Commission proposes to establish the RUDOF, which will commit at least \$20.4 billion over the next decade to support high-speed broadband networks in rural America via a multi-round, reverse, descending clock auction that favors faster services with lower latency and encourages intermodal competition.⁹

Through this auction framework, the Commission proposes to award high-cost support funding so that communities throughout the nation have the option and opportunity to obtain high-speed Internet access. The Commission proposes to conduct the auction in two separate phases: Phase I will target those areas where current data confirms homes and businesses lack access to broadband service at minimum speeds of 25/3 Mbps, including census blocks where carriers have deployed broadband at speeds of 10/1 Mbps, while Phase II of the auction will target those areas that are partially served as well as any areas not successfully bid in the first phase of the auction.¹⁰

A. The Joint Commenters Fully Support The Commission's Efforts To Obtain Better Broadband Deployment Data So That The Commission Can Improve Its Ability To Target CAF Support To The Areas Where It Is Most Needed

The Commission uses its Form 477 to collect data from broadband providers to identify broadband availability across the United States.¹¹ This data was the primary source for the Commission's recent efforts to provide federal high-cost support for the deployment of broadband-capable networks in rural areas via the CAF program. Through

⁹ *NPRM* at ¶ 3.

¹⁰ *Id.*

¹¹ See *Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Report and Order, 28 FCC Rcd 9887, 9889 ¶ 6 (2013).

this data, the Commission determined which areas needed federal high-cost support funding assistance so as to allow the deployment of broadband, both fixed and mobile, to homes, businesses, and community anchor institutions in areas that did not, or would not otherwise, have broadband service.

However, the Commission has recently acknowledged that there is a compelling and immediate need to develop more granular and high-quality fixed broadband deployment data to improve its ability to target support from the CAF program. To its credit, the Commission recently initiated a proceeding in order to collect fixed broadband data to better pinpoint where broadband service is lacking.¹² The Commission concluded that in order to continue to advance its statutory universal service obligations, it was necessary to create a new data collection, calculated to produce broadband deployment maps that will allow it to precisely target scarce universal service dollars to where broadband service is lacking. As part of this initiative, the FCC adopted a new Digital Opportunity Data Collection, where it would utilize polygon-based maps in order to depict with precision those areas where providers actually have broadband networks.¹³ This new approach also allows for the public and the Commission to verify the data that carriers submit.¹⁴

1. Joint Commenters Comments

Accurate, reliable data is vital for informing the Commission's efforts to connect Americans to broadband-capable networks. The Joint Commenters applaud the

¹² See generally *Digital Opportunity Data Collection Order*.

¹³ *Digital Opportunity Data Collection Order* at ¶ 11.

¹⁴ *Id.*

Commission's recent efforts to improve its collection and use of broadband data.¹⁵ This action is a step in the right direction. This action should result in more granular data about where broadband is and is not deployed and should assist the Commission in targeting CAF support to areas where it is most needed.

In the *NPRM*, the Commission relies on analysis of the December 2017 Form 477 data (v.2) (which includes revisions through Mar. 26, 2019) and Form 477 filed as of June 30, 2017 (which includes revisions through Nov. 13, 2018) for the assertion that there are approximately 3.9 million locations in census blocks that are considered wholly unserved because no provider is offering both voice service as well as 25/3 Mbps terrestrial fixed broadband service.¹⁶ However, the data the Commission currently uses to populate its broadband maps is neither accurate nor reliable.

In the *NPRM*, the Commission has expressly stated that its proposed two-phase approach would ensure that these “unserved” areas are prioritized, so that support can begin to flow quickly while it works to improve the data needed to most efficiently target support over the longer term. Nonetheless, the information that the Commission has consistently relied upon to determine broadband availability has not been reported at a sufficiently granular level to make it useful for that purpose.

First, Form 477 asks broadband providers to provide data on areas they serve by census block.¹⁷ Under the Commission's rules, if a provider serves at least one location

¹⁵ See *Digital Opportunity Data Collection Order*.

¹⁶ *NPRM* at ¶ 3.

¹⁷ Federal Communications Commission, OMB Control No. 3060-0816, FCC Form 477 Local Telephone Competition and Broadband Reporting Instructions 12, 17 (2016).

within the census block, or could provide service “without an extraordinary commitment of resources,” the Commission considers the entire census block served by broadband.¹⁸ This results in a dramatic overreporting of the number of Americans who actually have access to broadband service.

Second, the data provided through Form 477 is self-reported by broadband providers. The Commission believes that self-reporting is a concern because it adopted a process to collect public input on the accuracy of service providers’ broadband maps, facilitated by a crowd-sourcing portal that will gather input from consumers as well as from state, local, and Tribal governments.¹⁹ The Joint Commenters agree that independent verification of provider data is necessary to verify whether the figure of 3.9 million locations that are “wholly unserved” is over or understated.

The Joint Commenters believe that better mapping data will identify gaps in broadband coverage across the nation and will resolve outstanding issues of collecting fixed broadband data that better pinpoint where broadband access services are lacking. To close the digital divide, the Commission must ensure that its broadband deployment data is reliable and valid. The Commission itself has acknowledged that closing the digital divide is too important of a priority to rely on outdated data. It also has acknowledged that the data compiled in Form 477 is inaccurate regarding the status of broadband availability and

¹⁸ *Id.* at 17, 34.

¹⁹ *Digital Opportunity Data Collection Order* at ¶ 11.

deployment.²⁰ Therefore, the locations supported in CAF Phase I and Phase II should be the minimum locations eligible for support. Going forward, support-eligible locations should include any additional unserved or underserved areas identified using any supplemental data system adopted in the pending Data Collection proceeding.

B. The Commission Should Prioritize Only Those Census Blocks Where There Is No Access To At Least 10/1 Mbps Broadband Service For Phase I Of The RUDOF

An argument can be made that the Commission should not move forward with this auction proposal until it has finalized the means to collect fixed broadband data that better pinpoints where broadband access services are lacking. However, an argument also can be made that there is a need to deploy broadband to Americans who lack access to at least 10/1 Mbps. If the Commission elects to proceed with the auction and rely on the Form 477, the Commission should prioritize providing federal universal service support to deploy broadband to rural Americans that have no fixed broadband access under the Commission's CAF II 10/1 Mbps standard.

1. Commission Proposal

The Commission proposes to target federal high-cost support from the CAF program through RUDOF to support high-speed broadband networks in rural America in two stages. For Phase I of the RUDOF, the Commission proposes to target census blocks that are unserved with broadband at speeds of 25/3 Mbps.

²⁰ *Accord In the Matter of Establishing the Digital Opportunity Data Collection*, WC Docket No. 19-125 (August 6, 2019) and *In re: Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10 (August 6, 2019), ¶¶ 4, 9, and 10.

Specifically, the Commission proposes to make the following areas lacking 25/3 Mbps initially eligible for Phase I of RUDOF: (1) census blocks for which price cap carriers currently receive CAF Phase II model-based support; (2) census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (3) census blocks where a CAF Phase II auction winning bidder has defaulted; (4) census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were already served with voice and broadband of at least 10/1 Mbps; (5) census blocks served by both price cap carriers and rate-of-return carriers to the extent that a census block is in the price cap carrier's territory; (6) census blocks that are currently unserved outside of price cap carriers' study areas where there is no certified high-cost ETC providing service and any other populated areas unserved by either a rate-of-return or price cap carrier; and (7) census blocks identified by rate-of-return carriers as ones where they do not expect to extend broadband.

The Joint Commenters oppose this specific proposal regarding Phase I of the RUDOF because it does not prioritize those census blocks where carriers have not deployed voice and broadband of at least 10/1 Mbps. Rather, Phase I of the RUDOF should prioritize deploying broadband to rural Americans that have no fixed broadband access even at the 10/1 Mbps threshold. This lack of prioritization will lead to further enhancement of existing broadband networks, while other eligible census blocks that currently lack access to 10/1 Mbps today may continue to remain totally unserved.

2. Joint Commenters Comments

The Joint Commenters are not opposed to the Commission's proposal that access to 25/3 Mbps broadband service should be the minimum threshold for Phase II of the RUDOF and any CAF auction being implemented in the near future.²¹ However, the Commission should first limit federal universal service high-cost support funding in Phase I to only those locations where there is no access to broadband service of at least 10/1 Mbps. The Commission should target federal high-cost support to truly unserved areas before providing support to areas where access to at least 10/1 Mbps is available or on schedule to be available at the conclusion of the current CAF II program. To be clear, the Joint Commenters are not advocating that the Commission ignore those areas where broadband is available at only 10/1 Mbps. Rather, the Joint Commenters are advocating that Phase 1 of the RUDOF only prioritize areas where there is no current or scheduled access to broadband service of at least 10/1 Mbps.

It better serves the public interest for the Commission to ensure it has first attempted to fund broadband deployment in all of the CAF model-based eligible census blocks. That way, there is broadband deployment to those unserved rural Americans that lack access to 10/1 Mbps today and puts them on similar footing with those already scheduled to be provided access to 10/1 Mbps under the CAF II program. This two-pronged approach, in which Phase I is limited only to those census blocks that lack 10/1 Mbps, while Phase II focuses solely on upgrading speeds to 25/3 to areas that have or

²¹ The Joint Commenters recognizes that subsequent changes in FCC policy may adopt a higher standard.

will receive 10/1, better enables the Commission to achieve goal of closing the digital divide and achieving its universal service objectives of ensuring access to broadband services throughout the nation.

The Joint Commenters assert that universal service funds are not “efficiently” awarded when used to upgrade existing terrestrial broadband-capable networks in census blocks where 10/1 Mbps is or will be available. Phase I should focus only on those census blocks that are adjacent to or in close proximity to areas where a service provider has already received universal service funds to deploy broadband service at 10/1 Mbps. The current lack of access to broadband service at even 10/1 Mbps may be attributable to: (1) a price cap carrier’s not accepting CAF II model support (e.g., Verizon in Pennsylvania and other states); (2) a non-winning bid in a competitive auction; and/or (3) the lack of any competitive bidding for eligible census blocks altogether.

Before providing support to upgrade speeds in census blocks where voice and broadband of at least 10/1 Mbps is available, the Commission should first ensure that census blocks that have been truly left behind and are unserved by 10/1 Mbps, despite the Commission’s best efforts with the CAF Phase II and the Auction 903, are prioritized first. That way, federal high-cost support can begin to flow quickly to these areas, and the homes and businesses located there can finally enjoy the benefits of the 21st Century.

It is in the public interest for the Commission to ensure that those remaining price cap eligible census blocks that were outlined in the initial Connect America Model do not continue to be disregarded, especially when proposing to give additional high-cost support to areas that already having access to at least 10/1 Mbps terrestrial fixed

broadband access networks and services. The Joint Commenters note that the Commission offered incumbent price cap carriers a one-time opportunity to accept and receive defined federal high-cost support over a six-year term in exchange for extending access services at speeds of at least 10/1 Mbps in eligible census blocks throughout their service areas in each state. However, not all price cap carriers accepted the CAF Phase II model-based offer of support so the declined amounts associated with the eligible census blocks plus other areas unserved by robust broadband were included in Auction 903.

Additionally, while Auction 903 yielded 103 winning bidders, with a 10-year support amount totaling \$1.488 billion dollars and covering 713,176 locations in 45 states, many of those remaining initial eligible census blocks where the price cap carrier declined the model-based support did not come under any winning bids in the CAF Phase II auction. Thus, these census blocks remain unserved.

In Pennsylvania, a portion of the 84,551 remaining “declined” eligible census blocks for which price cap carriers did not accept model-based support were part of winning bids in Auction 903 and will now have access to broadband services at speeds up to 1 Gbps/500 Mbps. However, as summarized below, there are a number of remaining unassigned locations within eligible census blocks in Pennsylvania counties that will have no access to broadband services at all under the 10/1 Mbps federal standard:

County	Remaining Unassigned Locations	County	Remaining Unassigned Locations
Adams	15	Lancaster	83
Allegheny	82	Lawrence	242
Armstrong	10	Lebanon	120
Beaver	285	Lehigh	60
Bedford	37	Luzerne	279
Berks	521	Lycoming	1516
Blair	141	McKean	447
Bradford	273	Mercer	727
Bucks	17	Mifflin	926
Butler	351	Monroe	83
Cambria	1061	Montgomery	17
Carbon	290	Montour	524
Centre	1141	Northumberland	467
Chester	74	Perry	115
Clarion	483	Philadelphia	27
Clearfield	1015	Pike	119
Clinton	3	Schuylkill	698
Columbia	757	Snyder	2263
Cumberland	2	Somerset	1439
Dauphin	70	Susquehanna	638
Delaware	20	Tioga	238
Erie	27	Union	6
Fayette	1039	Venango	921
Forest	783	Warren	552
Fulton	49	Washington	922
Huntingdon	448	Wayne	1289
Indiana	2779	Westmoreland	435
Jefferson	347	Wyoming	76
Lackawanna	465	York	1925
		Total	29,739

These remaining unassigned locations set forth above are substantial, and the vast majority are within eligible census blocks throughout Verizon's service territories because Verizon declined the model-based CAF Phase II offer of support. This offer of model-based support was targeted to price cap areas that were high-cost, but not extremely high-cost, and not served by an unsubsidized competitor, subsidized wireline competitor, or not subject to specific types of bids in the rural broadband experiments.

These locations then became available in Auction 903 but were not subject to a winning bid. These unserved locations have no near or long-term prospects for obtaining access to any modern broadband services whatsoever. Consequently, they should be the focus of Phase I.

The Commission's proposal to include partially served census blocks having access to at least 10/1 Mbps with truly unserved initial eligible census blocks during Phase I of the auction will further exacerbate, and potentially expand, the digital divide. It may detrimentally impact these remaining eligible census blocks not only in Pennsylvania but elsewhere, particularly where targeted CAF II support was offered but neither accepted nor successfully bid in Auction 903. This proposal hinders the Commission's objectives and contravenes the public interest standard. While the Commission has repeatedly emphasized its preference for higher speeds, it should balance this preference against its objective of maximizing its finite budget to ensure that currently unserved locations will get served.

It is the responsibility of the Commission to adopt measures to ensure that public investments are used to deliver intended results and that the stated goals of the universal service programs are not thwarted or impaired. Even in the text of this *NPRM*, the Commission reiterates that any proposal regarding the RUDOF's framework will be guided by these two stated goals: (1) ensuring that high-speed broadband is made available to all Americans quickly; and (2) reducing waste and inefficiency in the high-cost program.

In its effort to close the rural digital divide and ensure that its universal service goals are met, the Commission should prioritize the following census blocks during Phase I of the RUDOF: (1) census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (2) census blocks where a CAF Phase II auction winning bidder has defaulted; (3) census blocks served by both price cap and rate-of-return carriers to the extent that the census block is in the price cap carrier's territory and identified by the rate-of-return carrier as one where neither has made a commitment to extend broadband; and (4) census blocks and any other populated areas unserved by either a price cap or rate-of-return carrier or where there is no certified high-cost ETC providing broadband service. By doing so, the Commission promotes the efficient and responsible use federal funds and institutes efforts to protect the future sustainability of the CAF program.

Accordingly, the Joint Commenters recommend that the Commission prioritize high-cost universal service funding to those truly unserved areas where locations lack a provider offering 10/1 Mbps speeds in Phase I of the RUDOF. Under this approach, Phase 1 should only target remaining unserved census block where there is no broadband service of at least 10/1 Mbps. This will allow the Commission to make more effective use of the limited federal high-cost support funding from the CAF by ensuring that, first, all unserved locations will get broadband service at the desired speed and, second, that all locations with 10/1 will receive an upgrade to 25/3 service. This approach is in the public interest and will ensure that the overall CAF budget will be used to serve consumers that lack access to broadband services at any meaningful speed rather than

diverting funds to enhance terrestrial networks in areas where consumers already have access to at least 10/1 Mbps services. This better comports with the Commission's statutory universal service goals to bring access to broadband services to unserved areas before funding upgrades where broadband services are already accessible.

C. The Commission Should Establish Meaningful And Adequate Reporting Obligations For Recipients From Federal High-Cost Support From The Rural Opportunity Digital Fund

1. Commission's Proposal

The Commission proposes to adopt the same reporting requirements for the RUDOF that it adopted for the CAF Phase II auction to ensure that support recipients are meeting their deployment obligations. Specifically, the Commission proposes requiring RUDOF support recipients to annually file the same location and technology data in the HUBB portal, to make the same certifications when they have met their service milestones, and to file such data on a rolling basis.

The Commission also proposes requiring RUDOF support recipients to file the same information in the annual FCC Form 481 that is required of CAF Phase II auction support recipients. Specifically, in addition to the certifications and information required of all high-cost ETCs in the FCC Form 481, RUDOF support recipients would be required to certify each year after they have met their final service milestone that the network they operated in the prior year meets the Commission's performance requirements. Support recipients also would be required to identify the number, names, and addresses of community anchor institutions to which they newly began providing access to broadband services in the preceding calendar year as well as identify the total

amount of support that they used for capital expenditures in the previous calendar year. Moreover, support recipients would need to certify that they have available funds for all project costs that will exceed the amount of support they will receive in the next calendar year. The Joint Commenters advocate for much-needed adjustments to the proposed reporting framework for RUDOF support recipients.

2. Joint Commenters Comments

The Joint Commenters encourage the Commission to confirm that federal high-cost recipients should be required to ensure that public investments are used wisely to deliver intended results. However, the current reporting regime is wholly inadequate and not very transparent for that purpose. The Joint Commenter asserts that adjustments to the reporting framework should be made if the Commission determines to impose reporting requirements on RUDOF support recipients, which it should. These reporting requirements should be not only readily accessible but also understandable to state commissions. Recipients should provide detailed information to state commissions and other interested stakeholders that confirms and validates that they are meeting their broadband deployment obligations, and not only just for a specific class but for both business and residential customers alike. Accordingly, the information set forth in the Form 481 should coincide with the data submitted in the HUBB.

As of now, the location and technology data submitted in the HUBB portal is cumbersome and not user-friendly, especially as a means of verification, which states not only should but must do. This information can be filed under seal and marked as proprietary and confidential so that support recipients have a comfort level that this

information will not be publicly released, and will only be used to identify the number, names, and addresses of the homes, businesses and community anchor institutions to which they newly began providing access to broadband services in the preceding calendar year. The Joint Commenters urge the Commission to require RUDOF support recipients to provide more detailed information on these issues, and to make it available to state commissions, so that the state commissions can properly analyze the deployment of broadband service in their respective states, ensure accountability, be responsive to state constituencies, and assure that scarce public investment dollars are being used to deliver intended results.

D. The Availability Of Long-Term Support For The Universal Availability Of Fixed Broadband Access Services Requires The Reform Of The Federal USF Contribution Base

The sufficiency and predictability of long-term support for the universal availability of fixed broadband access services at the current 25/3 Mbps standard, will likely require the reform of the federal USF contribution base and the current assessment methodology. In view of the increasing federal USF contribution assessment factors arising from the focus on telecommunications services revenues— and the associated burden that is placed on traditional end-user consumers of telecommunications services — the Commission must proceed expeditiously with the timely completion of its longstanding proceeding involving the reform of the federal USF contribution base and methodology. This should be done in conjunction with the associated referral to the

Federal-State Joint Board on Universal Service, as has been repeatedly suggested over time by a number of interested stakeholders.²²

IV. CONCLUSION

With billions of dollars of funding at stake in the RUDOF, which will also replace existing levels of support, it is imperative that the Commission have accurate data to identify those areas and locations that do not have access to broadband services at all and/or where eligible locations are underserved because homes and businesses can only access broadband services at 10/1 Mbps. The fact remains that the Commission's auction proposal is based upon flawed data about where broadband is and is not deployed. However, the Commission's desire to address the lack of broadband in America, including Pennsylvania areas that were not the beneficiary of a successful bid in the 903 auction, is understandable. There are Americans who lack access to broadband service who can be helped even with flawed data. If the FCC decides that addressing broadband using this imperfect data is more important than waiting until more reliable data is available, the Joint Commenters urge that, going forward, the Commission should include all other unserved locations subsequently identified in any subsequent data collection approach that the FCC adopts in the pending Data Collection proceeding.

²² *In re Petition of NTCA-The Rural Broadband Association and the United States Telecom Association for targeted Temporary Forbearance Pursuant to 47 U.S.C. § 160(c) from Application of Contributions Obligations on Broadband Internet Access Transmission Services Pending Universal Fund Comprehensive Contribution Reform*, WC Docket Nos. 17-206 & 06-122, Comments of the Pennsylvania Public Utility Commission, September 13, 2017; *In re Universal Service Contribution Methodology, et al.*, WC Docket No. 06-122 *et al.*, Reply Comments of the Pennsylvania Public Utility Commission, and Reply Comments of the State Members of the Federal State Joint Board on Universal Service, August 6, 2012.

If the Commission determines that it serves the public interest to implement its Rural Digital Opportunity Fund proposal as soon as possible, the Commission should prioritize communities that are truly unserved today. These communities should be the priority because they do not have, and will not get, 10/1 Mbps fixed broadband service under the current CAF program. If the Commission wants to ensure that the hardest-to-serve communities finally receive usable broadband service, it should prioritize these areas first during Phase I of the RUDOF. Federal high-cost funding should be used first in those areas where there still is no private sector business case to deploy broadband without support before proceeding to upgrade areas that have or will obtain 10/1 Mbps. This approach is compatible with the public interest and furthers the Commission's statutory universal service goals to bring access to broadband services to unserved areas before funding upgrades where broadband services are already accessible.

Lastly, the Joint Commenters advocate for adjustments to the Commission's proposal to adopt the current reporting regime for RUDOF federal high-cost recipients. The reporting requirements should require recipients to provide understandable and consistent information regarding their broadband deployment efforts. The information set forth in the Form 481 should coincide with the data submitted in the HUBB so that state commissions can validate that carrier-recipients are meeting their broadband deployment obligations, and not only just for a specific class but for business and residential customers alike.

The Joint Commenters appreciate this opportunity to file comments in this proceeding.

Respectfully submitted,

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