

January 2, 2015

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Connect America Fund, WC Docket No. 10-90

Dear Ms. Dortch:

On December 18, the Commission released a Report and Order in the above-captioned docket, *inter alia*, setting forth final eligibility parameters and service obligations for the Connect America Fund (“CAF”) Phase II model-based support for price cap carriers.¹ Price cap carriers serving non-contiguous states or territories are permitted, pursuant to a previous ruling by the Wireline Competition Bureau, to elect to continue receiving frozen CAF support in lieu of model-based support during CAF Phase II.² In the *CAF Phase II Eligibility Order*, the Commission decided to adopt individually tailored service obligations for any carriers that elect to continue to receive frozen support amounts in lieu of model-based support in non-contiguous service areas.³ The Commission requested that each such carrier notify the Wireline Competition Bureau no later than 15 days after the release of the *CAF Phase II Eligibility Order* whether it is interested in frozen Phase II support in lieu of model-based support.⁴

Expression of Interest In Frozen Support For Non-Contiguous Areas

ACS is interested in continuing to receive frozen CAF support rather than model-based support for Phase II. By copy of this letter, ACS hereby notifies the Wireline Competition Bureau of its interest, in satisfaction of the requirement set forth in the *CAF Phase II Eligibility Order*. While ACS cannot say whether it will accept frozen CAF Phase II support for Alaska until it knows what service obligations would attend that support, ACS has determined that it

¹ *Connect America Fund, ETC Annual Reports and Certifications, Petition of US Telecom for Forbearance from Obsolete ILEC Regulatory Obligations*, WC Docket Nos. 10-90 *et al.*, Report & Order, FCC 14-190 (rel. Dec. 18, 2014) (the “*CAF Phase II Eligibility Order*”).

² *Connect America Fund*, WC Docket No. 10-90 *et al.*, Report & Order, DA 14-534, ¶152 (Wireline Competition Bur. rel. April 22, 2014). See *CAF Phase II Eligibility Order*, n.99.

³ *CAF Phase II Eligibility Order*, ¶46.

⁴ *Id.*, ¶47.

will not be able to accept model-based support with the service obligations adopted by the Commission.

ACS has proposed a set of frozen CAF Phase II service parameters for its territory, as set forth in detail in recent filings in this proceeding, to preserve and expand telecommunications and information services in Alaska.⁵ ACS looks forward to finalizing a tailored approach for CAF Phase II that reflects the unique circumstances of providing voice and broadband capability within ACS's service footprint.

As a threshold matter, ACS believes that the Commission or the Bureau needs to determine how to identify the locations that ACS would be obligated to serve in the event it accepts frozen support. Specifically, it is not clear whether the Bureau expects to include in its final model run the non-contiguous areas served by carriers electing frozen rather than model support, or whether the final model run will exclude such areas. If the Bureau has in mind some alternative method for identifying the locations that must be served with qualifying broadband service as a condition of receiving frozen Phase II support, ACS would appreciate guidance on this point as soon as possible.

Guidance Sought On CAF Phase I and CAF Phase II Service Obligations

As part of ACS's analysis of its future obligations in CAF Phase II, ACS seeks guidance from the Wireline Competition Bureau concerning satisfaction of the CAF Phase I build-out obligations. Specifically, under the Commission's CAF Phase I, Round 2 rules, ACS has committed to deploying broadband at 4 Mbps downstream/1 Mbps upstream to 316 locations that lack access to at least 3 Mbps/768 kbps. ACS has completed the preliminary planning for this build-out, and in the next few weeks will order materials and complete the engineering work. Delay could result in ACS's missing the limited 2015 construction window. Hence, ACS urgently requests guidance on the following questions.

First, it appears that 217 of the 316 locations ACS is targeting for CAF Phase I, Round 2 are among the locations that now are shown as qualifying for CAF Phase II support using the Commission's model. ACS has proposed for Phase II to provide broadband in up to 30,000 unserved locations on the Alaska road system, including these 217 locations. ACS seeks guidance as to how to resolve this seeming overlap.

If ACS were required to substitute 217 alternative unserved locations as part of its CAF Phase I, Round 2 broadband deployment,⁶ these would be far more expensive on a per-location

⁵ See *Connect America Fund*, WC Docket No. 10-90 *et al.*, Letter to Marlene H. Dortch from Karen Brinkmann, Counsel to ACS (filed Sept. 22, 2014); Reply Comments of ACS (filed Sept. 8, 2014); Comments of ACS (filed Aug. 8, 2014).

⁶ This is a plausible reading of the Commission's order adopting rules for Incremental CAF Phase I, Round 2. *Connect America Fund*, WC Docket No. 10-90, 28 FCC Rcd 7766 (2013), ¶21 ("Also, in order to use Connect America funds in the most efficient manner possible and avoid providing excess support to an area, we direct the Bureau to ensure the funding is not

basis. Because the model identifies all eligible locations in all unserved census blocks, any substitute locations selected by ACS for CAF Phase I, Round 2 would necessarily be either unserved locations in partially served census blocks, which by definition are very high-cost locations, or unserved locations that are in unserved but extremely high-cost census blocks. In short, ACS has not identified any suitable substitute locations where it can affordably deploy broadband in the given timeframe.

Alternatively, ACS could proceed to deploy broadband to these 217 locations as planned, in partial satisfaction of its Phase I obligations, and the Commission could permit ACS to upgrade them to 10 Mbps downstream/1 Mbps upstream using a portion of its CAF Phase II support. This solution would be consistent with the requirement of the Communications Act that all customers in rural, insular and high-cost areas have access to telecommunications and information services that are reasonably comparable to those available to customers in urban areas.⁷ The Commission is requiring all carriers accepting model-based support to provide broadband at 10/1 Mbps statewide to satisfy this mandate, based on the Commission's finding that a majority of Americans today have access to broadband at 10/1 Mbps, including 99 percent in urban areas.⁸

Allowing ACS to bring these locations to 4/1 Mbps by August 2015, during CAF Phase I, and later upgrade these locations to 10/1 Mbps during CAF Phase II, also would serve the Commission's goal that high-cost support be spent to make broadband capability available to as many unserved locations as possible, at an evolving level of service, while sustaining voice and broadband-capable infrastructure in high-cost areas that would not be served in the absence of support.⁹ Moreover, it would be consistent with the Commission's rules for carriers accepting model-based support because, as a practical matter, they will be able to satisfy their build-out requirements by showing that they provide broadband to all eligible locations in their service areas statewide without regard to whether they already provided broadband to some of those locations at the start of Phase II. Accordingly, ACS seeks guidance from the Bureau on this proposed approach.

A second but related point on which ACS seeks guidance concerns the use of National Broadband Map ("NBM") to determine what locations are deemed "served" at a particular point in time for purposes of establishing the broadband service obligations under CAF Phase II. The

provided to the same census blocks under both Phase I incremental support and Phase II. No carrier should be allowed to satisfy its Phase I obligations in any census block where it receives Phase II support. If a carrier accepts Phase II support in a census block where it had initially planned to deploy broadband-capable networks to locations in order to meet its Phase I obligations, it must identify and deploy to the requisite number of locations in another census block for which it did not receive Phase II support") (footnotes omitted).

⁷ 47 U.S.C. §254(b)(3).

⁸ *CAF Phase II Eligibility Order*, ¶16.

⁹ *Connect America Fund*, WC Docket Nos. 10-90 *et al.*, Report & Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17725 (2011) ("*USF-ICC Transformation Order*"), *aff'd sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

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current version of the NBM being used by the Commission (the December 2013 version), for example, does not yet capture the broadband locations added by ACS in 2014 using CAF Phase I incremental support. ACS urges the Bureau to ensure that the broadband service obligations adopted for CAF Phase II either will exclude from the total required number the number of locations to which ACS deployed broadband in Phase I, regardless of whether the NBM may still show them as unserved, or will permit ACS to upgrade those locations from 4/1 to 10/1 Mbps.

ACS looks forward to working with the Bureau on Alaska-specific rules governing acceptance of frozen support for CAF Phase II. Please direct any questions concerning this filing to me.

Very truly yours,



Karen Brinkmann

Counsel for ACS

cc: Wireline Competition Bureau:
Julie Veach, Chief
Carol Matthey, Deputy Chief
Katie King
Alex Minard
Ian Forbes