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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

Re: Petition for Waiver of National Rural Utilities Cooperative Finance Corporation (“CFC”) and its affiliate, the Rural Telephone Finance Cooperative (“RTFC”) in WC Docket No. 10-90 and WC Docket No. 14-58.

Dear Ms. Dortch:

The Utilities Telecom Council (“UTC”) pursuant to Section 1.405 of the Commission's Rules hereby files its comments in response to the Commission’s Public Notice regarding the above-referenced petition for waiver.¹ UTC supports Commission grant of the waiver request. UTC agrees with Petitioners that the underlying purpose of the rule would not be served by its application here, and that unique circumstances and public interest considerations support granting a waiver to the Petitioners.

Petitioners seek a waiver of the requirement that winning bidders for rural broadband experiments (RBE) must provide letters of credit (LOCs) that are issued by a bank that is, among other things, insured by the Federal Deposit Insurance Corporation (FDIC) or Farm Credit System Insurance Corporation (FCSIC).² Petitioners explain that they cannot meet this requirement because they are neither insured by FDIC nor FCSIC, but that CFC is the largest non-governmental lender to rural utility providers and has \$22 billion in outstanding loans and guarantees.³ In addition, CFC has over \$1 billion in cash and liquid short-term investments as well as an additional \$3.4 billion in multi-year committed revolving syndicated credit facilities from CFC’s relationship banks, including JP Morgan Chase, US Bank, and the Royal Bank of Scotland. These facilities require CFC to comply with financial covenants, similar to those typically included in syndicated revolving credit facilities issued to FDIC-regulated banks.⁴ They further explain that many rural utility and rural telephone cooperatives already borrow

¹ Wireline Competition Bureau Seeks Comment on the National Rural Utilities Cooperative Finance Corporation and the Rural Telephone Finance Cooperative’s Petition for Waiver of the Rural Broadband Experiments Letter of Credit Bank Eligibility Requirements, Public Notice DA 15-106, WC Docket No. 10-90 and WC Docket No. 14-58 (Jan. 23, 2015).

² *Connect America Fund, ETC Annual Reports and Certifications*, Report and Order and Further Notice of Proposed Rulemaking, WC Dockets No. 10-90 & 14-58, FCC 14-98, ¶¶ 59-60 (rel. July 14, 2014).

³ Petition at 2 (stating that “because CFC is not insured by the Federal Deposit Insurance Corporation (“FDIC”) or the Farm Credit System Insurance Corporation (“FCSIC”), it cannot meet the third eligibility requirement, notwithstanding its strong access to capital that provides protection functionally equivalent to FDIC/FCSIC insurance.”)

⁴*Id.* at 7.

from CFC and RTFC, and that CFC was created by its member cooperatives to provide them with a variety of financial products that may not otherwise be available to them. Some of these rural electric and telephone cooperatives only have banking relationships with regional banks, and therefore if the Commission doesn't grant a waiver they may not be able to bid for grants from the FCC Programs since they do not have a banking relationship with an FCC-approved bank.⁵

UTC agrees with Petitioners that the underlying purpose of the rule would not be served by its strict application here. The purpose of the rule is to protect the Government in the event of a default by a winning bidder. UTC submits that the Petitioners meet the Commission's other requirements for bank eligibility. Specifically, Petitioners have demonstrated that they rank among the top 100 banks in the country according to the Federal Institutions Examination Council, and that they have an A credit rating from Standard and Poor and an A2 credit rating from Moody's.⁶ The only issue is that they are not insured by either FDIC or FSLIC. The Commission has been faced with similar circumstances before, and it granted a waiver to CoBank (even though it was not insured by the FDIC), because it found that "CoBank [was] an acceptable financial institution for purposes of issuing LOCs" based upon CoBank's size, authority, credit rating, and experience, as well as the existence of special circumstances relating to CoBank."⁷ Given the qualifications of the Petitioners, the Commission should also grant a waiver to them as well.

UTC also agrees with Petitioners that special circumstances would justify the grant of a waiver for Petitioners. As they explain, electric cooperatives rely on CFC for loans, and CFC is heavily engaged in all types of government rural programs, not just broadband. For example, CFC has authority to borrow on a guaranteed basis from the U.S. Department of Treasury's Federal Financing Bank ("FFB"), a revolving credit commitment from the Federal Agricultural Mortgage Corporation ("Farmer Mac").⁸ In addition, CFC also has borrowing authority through the U.S. Department of Agriculture's Guaranteed Underwriter Program ("GUP"), as well as access a revolving credit commitment from Farmer Mac. As of November 30, 2014, CFC had \$874 million in additional available commitments under the GUP program. Finally, CFC has worked for decades with the Rural Utilities Service (RUS) to help meet the credit needs of rural utility and telecommunications providers, including providing concurrent financing in conjunction with RUS, providing bridge financing to the utility until RUS loan approval is granted. CFC also issues LOCs to the U.S. Department of Agriculture in connection with its members' participation in the Rural Economic Development Loan and Grant Program ("REDLG"). This program is similar to the rural broadband experiments and demonstrates that other governmental agencies have determined that CFC is an approved provider of LOCs in connection with their programs. CFC has also issued LOCs under Federal Energy Regulatory Commission ("FERC") protocols to Regional Transmission Operators and Independent System Operators, which are regional organizations set up by FERC to monitor and coordinate distribution of electricity across designated territories.⁹ Given Petitioners' extensive experience and involvement with funding rural electric cooperatives under various different government programs with various different agencies, UTC submits that CFC and RTFC are uniquely situated, such that the requested limited waiver of the LOC requirement is warranted.

⁵ *Id.* at 9-10.

⁶ *Id.* at 6.

⁷ *Mobility Fund Phase I, et al.*, WC Docket No. 10-90, Order, 27 FCC Rcd 13457, 13461 ¶ 7 (Wireless Tel. Bur. 2012) (*CoBank Waiver Order*).

⁸ Farmer Mac is a government sponsored enterprise ("GSE") and member of the federal farm credit system.

⁹ Petition at 8.

UTC also agrees with Petitioners that the public interest would be served by granting a waiver to the Petitioners. This would provide rural electric cooperatives with additional options and flexibility to meet their LOC requirements so that they could be able to access RBE funding, which will in turn promote rural broadband access and competition. Rural America needs access to broadband and granting the waiver to Petitioners would demonstrably advance the overriding public interest goal of promoting access to federal funding for rural broadband deployment through the Connect America Fund. It is worth noting that the Administration has recently introduced several different initiatives designed to drive rural broadband access, which reflects the overriding national public policy interest in it.¹⁰ This policy reflects the fact that broadband access promotes economic growth, health care and education. For all of these reasons, the public interest would be served by granting the limited waiver requested by the Petitioners, which would promote rural broadband access.

UTC appreciates the opportunity to comment in support of the request for waiver by the Petitioners. Commission grant of the waiver would support the underlying purpose of the rule, and would be consistent with the public interest and is justified by unique circumstances. Therefore, UTC supports the request for waiver by the Petitioners.

Respectfully,



Brett Kilbourne

¹⁰ See e.g. “NTIA Announces BroadbandUSA Effort to Assist Communities with Broadband Plans” at <http://www.ntia.doc.gov/blog/2015/ntia-announces-broadbandusa-effort-assist-communities-broadband-plans>