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August 4, 2015

Via ECFS

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

Re: *Ex Parte* Filing of the American Cable Association on the Connect America Fund, WC Docket No. 10-90

Dear Ms. Dortch:

On July 31, 2015, Ross Lieberman, Senior Vice President of Government Affairs, American Cable Association (ACA), Zachary Cohen, Cartesian (by telephone), and Thomas Cohen, Kelley Drye & Warren LLP, Counsel to ACA, met with the following staff: Wireline Competition Bureau – Carol Matthey, Alex Minard, Katie King, Heidi Lankau, Molly O'Connor; and Audra Hale-Maddox (by telephone), and Office of Strategic Planning & Policy Analysis – Jonathan Chambers. The purpose of the meeting was to discuss the best means to structure a Connect America Fund (CAF) Phase II competitive bidding process. In the meeting, ACA representatives submitted that the public interest would be best served in the competitive bidding process by giving priority to the deployment of Fiber to the Premises (FTTP) networks¹ to locations in eligible unserved areas.

¹ FTTP networks have only fiber transmission media (and not any copper media, whether twisted pair or coaxial, or wireless media) from the central office or headend all the way to the optical network terminal or equivalent device at the customer's premises or, for a multi-unit dwelling (MDU), to the main aggregation point in the MDU. A network should be considered an FTTP network for purposes of being eligible for receipt of CAF support via competitive bidding so long as all transmission media to locations in eligible unserved areas are fiber, even if some transmission media on the provider's network serving other areas are not fiber. In addition, for an FTTP build, the Commission should

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ACA appreciates that the Commission balances many objectives in structuring the CAF to bring broadband service to unserved, high-cost areas. For the past four years, in areas served by price cap local exchange carriers (LECs), the Commission in weighing these objectives has decided to focus on providing support to these carriers to bring lower speed broadband service to unserved locations.² But, ACA submits that in structuring the Phase II competitive bidding

determine that deployment targets are met by examining whether fiber “passes” a location.

² While the Commission has adopted mechanisms supporting the provision of lower speed broadband to unserved locations, it has increasingly recognized the substantial value – and has encouraged the deployment – of FTTP networks, including in rural areas. *See e.g. Connect America Fund et al.*, Report and Order, FCC 14-190, WC Docket No. 10-90 *et al.*, 29 FCC Rcd 15644, 15655, ¶ 29 (rel. Dec. 18, 2014) (the Commission “encourage[d] parties receiving ten years of support through the Phase II competitive bidding process to deploy future-proof networks that are capable of meeting future demand.”); *see also Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98, WC Docket No. 10-90 *et al.*, 29 FCC Rcd 8769, 8770, ¶ 3 (rel. July 14, 2014) (“For example, we sought to address the extent of interest among providers in deploying high-capacity fiber-based services that deliver high-speeds to rural communities. In particular, we sought to learn whether providers are willing and able to deliver services with performance characteristics well in excess of the minimum standards that price cap carriers accepting model-based support are required to offer to all funded locations, for at most the same amount of support as calculated by the model.”).

Chairman Wheeler also has recognized the value of FTTP networks and has indicated that we need to make sure all Americans and all communities have access to high performance broadband because it has such great value for economic growth, social interaction, and citizen engagement. *See* Remarks of FCC Chairman Tom Wheeler, Broadband Communities Summit, Austin, TX Apr. 14, 2015, and Prepared Remarks of FCC Chairman Tom Wheeler, “The Facts and Future of Broadband Competition,” 1776 Headquarters, Washington, D.C. Sept. 4, 2014. In these speeches, Chairman Wheeler discussed how the Commission should provide high-performance broadband service to all Americans:

Broadband Communities Summit Remarks – “The bandwidth demands of U.S. consumers have increased dramatically. The typical connected family of four has seven broadband-powered devices at home, and, increasingly, we are using bandwidth-intensive applications like streaming HD video. The capabilities of copper networks simply aren’t keeping up with these growing demands...At 25 Megabits-per-second downstream, which is table-stakes for broadband in 2015, just under 75 percent of U.S. homes can chose from only one or fewer wired providers. And, of course, that “or fewer” reference means that about 20 percent have NO access at that speed. That reality is simply unacceptable”

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framework there are sound reasons for the Commission to adjust its calculus to account for current dynamics. First, as we have seen in urban areas, high-performance and future-proof FTTP networks are becoming increasingly vital for consumers and their communities. Not only do consumers want the high-speeds and low latencies delivered by FTTP networks, but these networks drive economic growth for communities.³ Rural consumers and areas in which they live and work should not be left behind. Second, FTTP networks have much lower operating costs, enable providers to offer virtually any service, and provide a relatively easy path for upgrades – all of which present the possibility of diminishing, if not eliminating, the need for subsidies beyond the initial term.⁴ ACA thus proposes the Commission create a framework for the competitive bidding process that favors the deployment of FTTP networks that use support, according to specific criteria, in a cost-effective and fiscally responsible manner.

1776 Remarks – “Americans living in urban areas are three times more likely to have access to high-speed broadband than Americans living in rural areas. As bandwidth needs increase, we cannot tolerate the broadband digital divide getting larger.”

³ See “Gigabit Availability = \$1.4 Billion in GDP,” FTTH Council (Sept. 18, 2014) available at: <http://www.ftthcouncil.org/p/bl/et/blogid=3&blogaid=305>. (“A new, first-of-its-kind study released today by the Fiber to the Home (FTTH) Council Americas finds that communities with widely available gigabit access have per capita GDP that is 1.1 percent higher than communities with little to no availability of gigabit services. The study examined 55 communities in 9 states, finding a positive impact on economic activity in the 14 communities where gigabit services are widely available.”)

⁴ The Commission should view the construction of FTTP networks as a “one-time” capital investment. This means support can be freed up after being used for an FTTP deployment and used in other eligible unserved areas. Viewing CAF support as a limited “capital expenditure” has precedent. In the CAF Phase I process, the Commission awarded one-time capital support to incumbent carriers for the deployment of relatively low-speed DSL networks. In doing so, the Commission stated in the *2013 CAF Order* that “to use Connect America funds in the most efficient manner possible and avoid providing excess support in an area, we direct the Bureau to ensure funding is not provided to the same census blocks under both Phase I incremental support and Phase II.” See *Connect America Fund*, Report and Order, FCC 13-73, WC Docket No. 10-90, 28 FCC Rcd 07766, 07774, ¶ 21 (rel. May 22, 2013) (*2013 CAF Order*). ACA believes CAF support should be used in the most efficient manner possible and that the Commission should endeavour, particularly since support is limited, to follow the paradigm set with Phase I support and seek to phase out ongoing support in areas served by price cap LECs.

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How then, in structuring the competitive bidding process, should the Commission balance the benefits and costs of providing higher-cost FTTP networks against the benefits and costs of providing lower-cost low speed DSL service?

Because FTTP networks require the installation of fiber all the way to the premises, over a ten-year period (the duration of the competitive bidding program), they are more expensive to deploy than mere upgrades of fiber/copper DSL networks for lower speed broadband. As a result, in any competitive bidding process where cost-effectiveness is the sole criterion, price cap LECs upgrading their DSL plant will be able to outbid providers seeking to deploy FTTP infrastructure. Thus, unless there is a competitive bidding process that gives weight to the value of a cost-effective and fiscally responsible FTTP network build, few, if any, consumers are likely to receive the benefits of FTTP infrastructure.

ACA proposes the Commission address this issue by giving a priority to FTTP bids but only where these bids meet criteria indicating the bid is clearly superior to bids for lower speed broadband.⁵ Specifically, the FCC should award support first to bidders that: (1) offer to build FTTP networks to 90 percent of locations in the eligible unserved areas in their bid; (2) bid no more than the reserve price for the relevant areas; and (3) commit, after taking support for the ten-year period, to no longer seek CAF support for the relevant areas. In addition, to ensure that bids to provide FTTP are not excessive, the Commission should establish a cost per location limit above which it would be unreasonably costly to deploy fiber and not award support for FTTP in those eligible unserved areas.

In conclusion, ACA believes that in creating the framework for the Phase II competitive bidding process, the Commission has the opportunity to provide high-cost consumers with future-proof networks and make real strides in reforming the CAF over the long term. ACA looks forward to working with the Commission to reach this goal.

This letter is being filed electronically pursuant to Section 1.1206 of the Commission's rules.

⁵ A priority would mean either that bidding and awarding of funding for FTTP builds that meet the criteria set forth herein would take place before all other bidding, or that all bidding would take place simultaneously, but bids for FTTP builds that meet the criteria set forth herein would be awarded funding before all other bids.

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Sincerely,



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