

1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
tel. 202.434.4100
fax 202.434.4646

Writer's Direct Access
C. Douglas Jarrett
(202) 434-4180
jarrett@khlaw.com

Via ECFS

September 9, 2015

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation, WC Docket No. 10-90, Utilities Telecom Council and the National Rural Electric Cooperative Association

Dear Ms. Dortch:

The National Rural Electric Cooperative Association (“NRECA”) and the Utilities Telecom Council (“UTC”) provide this written summary of their presentation to the Commission staff on September 2, 2015, consistent with Section 1.1206 of the Commission’s rules. Brett Kilbourne on behalf of UTC, Martha Duggan of the NRECA and the undersigned met with Carol Matthey, Ryan Palmer, Alexander Minard and Heidi Lankau of the Wireline Competition Bureau, with Margaret Weiner, Gary Michaels, Rita Cookmeyer and Audra Hale-Maddox of the Wireless Telecommunications Bureau, and with Jonathan Chambers and Paul Lafontaine of the Office of Strategic Planning and Policy. The purpose of the meeting was to present and discuss principles and procedures supported by UTC and NRECA to govern the competitive bidding process for the available funds under Phase II of the Connect America Fund Phase (CAF Phase II).

Rural electric cooperatives are interested in providing broadband Internet access service at data speeds and at price points comparable to broadband service that is available in the country’s major metropolitan areas. During the last several years, NRECA and UTC have supported the efforts of the Commission to re-direct funds long allocated to the high cost program to support investment in rural broadband infrastructure through the Rural Broadband Experiments (RBE Program) and the CAF Phase II competitive bidding process. A number of rural electric cooperatives submitted qualifying bids under the RBE Program, and others are looking to submit competitive bids for CAF Phase II funds to deploy high speed broadband networks in rural communities that are currently unserved.

KELLER AND HECKMAN LLP

Marlene Dortch, Secretary
September 9, 2015
Page 2

Multi-Stage Auction

Consistent with UTC's July 1, 2015 presentation,¹ UTC and NRECA support a multi-stage bidding process. Under Stage 1, all available areas would be open for bidding to entities proposing Fiber to the Home (FTTH) technology, thereby building in the potential for substantial upgrades in data speeds and quality of service for the useful life of the deployed fiber. Under Stage 2, all remaining areas would be open for bidding to entities that would be required to offer broadband service with data rates of at least 25 Mbps downstream and 3 Mbps upstream (25/3 Mbps) and that would be further obligated to increase the minimum speeds to 50 Mbps/6 Mbps during the course of the ten-year funding period.

Principles for Bid Procedures within Each Stage

UTC and NRECA support a model that would enable entities to propose bid packages for various different geographic areas, based on census blocks – but not based on county boundaries. NRECA and UTC support a multi-round reverse auction in which bidders must submit bids in each round in order to compete to be selected as the winning bidder for access to CAF Phase II funding that is available in a given area. In each round, bidders should be allowed to submit multiple bidding packages in various different configurations of census blocks. In those instances in which competing bid packages have geographic overlaps, each bidder should have the option to modify the geographic overlap of its bids after each round.

Bidders would submit bids in each round based on the percentage of available funding in the census blocks in the package. The auction would be conducted in descending order, starting the bidding at 100% of the available funding in the first round and working downwards by increments of ten percent each round until there remained only one bidder that had submitted a bid for the percentage of available funding in those areas in that round of the auction. The winning bidder in each area would be the lowest bidder for the percentage of available funding for the census blocks in that area.

Coverage Requirement

Consistent with UTC's July 1 presentation, NRECA and UTC propose that each prevailing bidder should be obligated to offer service to 95% of the eligible locations in each of its winning bid packages within the sixth year of the funding period.

¹ Letter from Brett Kilbourne, Utilities Telecom Council, to Marlene Dortch, FCC Secretary, WC Docket No. 10-90 (filed July 6, 2015).

Pre-Auction Qualifications

A number of provisionally selected winners under the RBE Program timely submitted Eligible Telecommunications Carrier (ETC) applications with state commissions, but could not obtain the ETC designations within 90 days from the start of the state proceedings. For CAF II bidders that elect to obtain ETC status after being named provisionally selected bidders, the Commission should extend the deadline to obtain the state ETC certifications up to five months from the date that the state commission initiates the proceeding to act on the application.

NRECA and UTC also recommend the Commission not impose a pre-auction deposit, but support a modest, proportional fee that could be imposed on those provisionally selected bidders that withdraw their bid for an area, after submitting a winning bid for that area.

To satisfy any pre-auction requirement that a prospective CAF Phase II bidder be “technically qualified,” NRECA and UTC recommend that the Commission allow rural electric cooperatives to demonstrate their qualifications based upon their experience as utility service providers. Rural electric cooperatives deploy, operate and maintain hundreds and sometimes thousands of miles of distribution and/or transmission lines; and the skillsets and experience in deploying, operating and maintaining electric distribution and transmission cables and other external plants are comparable to those pertaining to deploying, operating and maintaining fiber optic cable and related outside telecommunications plants. These activities and assets constitute the lion share of CAF Phase II funding; and, similar to existing telecom and broadband services providers, electric cooperatives operate customer contact centers, utilize consumer-focused billing systems, and have established emergency response procedures. Accordingly, electric cooperatives should be deemed “technically qualified” to participate in the CAF II reverse auction.

Post Selection Criteria

As NRECA and UTC have previously recommended to the Commission, the FCC should modify the Letter of Credit requirements for submission by winning bidders, so that qualified financial institutions would include CFC, as well as Co-Bank.² In all other respects, NRECA

² See Comments of National Rural Electric Cooperative Association, WC Docket No. 10-90 and WC Docket No. 14-259 (filed March 30, 2015) (supporting the request of the National Rural Utilities Cooperative Finance Corporation (CFC) to be deemed a qualified financial institution to extend Letters of Credit to provisionally selected winners under the RBE program and the CAF II reverse auction and modify the level of the Letter of Credit throughout the funding periods). See also Letter from Brett Kilbourne, Vice President & Deputy General Counsel, Utilities Telecom Council to Marlene Dortch, Secretary, Federal Communications Commission in WC Docket No. 10-90 (filed Feb. 2, 2015)(supporting the petition for waiver filed by CFC).

KELLER AND HECKMAN LLP

Marlene Dortch, Secretary

September 9, 2015

Page 4

and UTC recommend that the Commission adopt post-selection criteria for CAF Phase II that would be similar to the requirements that the Commission adopted for provisionally selected RBE bidders. Thus, NRECA and UTC support requiring a provisionally selected CAF Phase II bidder to submit 3 years of audited financial data for itself or its parent, and a coverage map and diagram of the proposed network, as certified by a professional engineer.

Should the Commission have any questions or requests for clarifications, please contact the undersigned.

Respectfully,



C. Douglas Jarrett
Counsel to NRECA

cc: Carol Matthey
Ryan Palmer
Alexander Minard
Heidi Lankau
Margaret Weiner
Gary Michaels
Rita Cookmeyer
Audra Hale-Maddox
Jonathan Chambers
Paul Lafontaine