

November 13, 2015

VIA ECFS

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

Re: *Connect America Fund*, WC Docket No. 10-90; *ETC Annual Reports and Certifications*, WC Docket No. 14-58; *Rural Broadband Experiments*, WC Docket No. 14-259

Dear Ms. Dortch:

On behalf of the National Rural Utilities Cooperative Finance Corporation (“CFC”), this letter follows up on several questions from staff of the Wireline Competition Bureau and Office of the General Counsel with respect to CFC’s request that the Commission permit CFC to issue irrevocable stand-by letters of credit (“LOCs”) on behalf of its members, and the members of its affiliate, the Rural Telephone Finance Cooperative (“RTFC”), who are or will be either recipients of funding under the Rural Broadband Experiments (“RBE”) program or the upcoming Connect America Fund Phase II (“CAF II”) auction. This includes a conversation I had on November 12, 2015, with Neil Dellar of the Office of the General Counsel.

First, of CFC’s electric cooperative members, more than 200 rely exclusively on CFC as their lender; another approximately 600 borrow from CFC, though not exclusively. Of RTFC’s nearly 500 rural telephone company members, of which all could request LOC support from CFC for the RBE program or the CAF II auction, 80 currently have existing credit facilities backed by CFC. Finally, at least four provisionally selected bidders in the RBE program are CFC or RTFC borrowers. There may be other RBE bidders who are also CFC borrowers, but who were not among those provisionally selected; however, because this list is not public we cannot determine this definitively. CFC would expect most, if not all, of its borrower companies to turn to CFC to issue LOCs on their behalf in the CAF II auction, or under the RBE program. Indeed, CFC believes that almost all, if not all, rural telecommunications and electric cooperatives interested in or selected under either program will struggle to find LOC support from an eligible commercial bank if CFC is ineligible to issue those LOCs. And even if these entities were able to obtain a LOC through an eligible commercial bank, it would cost substantially more over the life of the support distribution than a CFC-issued LOC, as CFC has already demonstrated.¹ In one instance, CFC has already arranged for, and guaranteed, an LOC

¹ Letter from John T. Nakahata, Counsel, CFC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 14-58 & 14-259 (filed Nov. 4, 2015).

issued by an eligible commercial bank – which was issued at a substantial premium to what CFC would have charged had it been able to issue the LOC directly.

Second, CFC is appropriately considered to be a “bank” as that term is used in paragraph 59 of the *Rural Broadband Experiment Order*.² The Order does not define the word “bank.” However, in this context, which has no relationship to the receipt of deposits, the function of a “bank” is to make loans, which CFC does exclusively to utilities. This is the same function that a non-U.S. bank – which would not be accepting U.S. deposits – would play with respect to a borrower or LOC recipient. As previously discussed, CFC is a U.S. institutional lender with an asset-size that would place it within the top 100 U.S. commercial banks. The requirement to have FDIC insurance, which can only be obtained by institutions that accept deposits (because the FDIC provides deposit insurance), cannot be part of the definition of “bank” because that requirement does not apply to non-U.S. “banks” as that term is used in paragraph 59.

Third, we propose that as an alternative to the requirement to be FDIC-insured, a U.S. lending institution such as CFC, should be eligible if it (1) issues irrevocable LOCs that are approved by another agency of the United States government for securing loans or grants by that agency, and (2) also has at least a ten-year history of providing long-term financing in support of rural electric or telecommunications utility infrastructure investment. CFC issues irrevocable LOCs to utility borrowers (termed an “intermediary” in applicable federal regulations) participating in the Rural Economic Development Loan and Grant Programs, which LOCs have been approved by the United States Department of Agriculture.³ The fact that other agencies of the U.S. government accept the issuer’s LOC should be sufficient to validate the issuer’s financial stability, when taken in combination with the other LOC requirements not including FDIC insurance. In addition, by requiring a history of lending to rural telecommunications or electric infrastructure investment, the Commission can assure itself that the LOC issuer has experience with the types of long-term projects supported by RBE and CAF Phase II. These requirements would not replace the requirement to have assets equivalent to the top-100 U.S.

² *Connect America Fund; ETC Annual Reports and Certifications*, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98, 29 FCC Rcd. 8769, 8790 ¶ 59 (2014).

³ *See* 7 C.F.R. § 4280.17(d) (“If the Intermediary does not have an outstanding loan with RUS, the Intermediary must immediately provide, as security for any REDL loan it receives, a Rural Development-approved irrevocable letter of credit that remains in effect until the loan is repaid.”).

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commercial banks, or to maintain a long-term unsecured rating at least equivalent to BBB- by Standard & Poor's. CFC has maintained an A rating or better all the way back to its initial rating in 1972.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'KLD', is centered on the page.

Kristine Laudadio Devine
Counsel to CFC

Attachment

cc: Amy Bender
Nicholas Degani
Neil Dellar
Rebekah Goodheart
Heidi Lankau
Travis Litman
Carol Matthey
Alex Minard
Stephanie Weiner