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Via ECFS

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

**Re: American Cable Association ("ACA"), Ex Parte Meeting on Connect America Fund, WC Docket No. 10-90 and High-Cost Universal Service Support, WC Docket No. 05-337**

Dear Ms. Dortch:

Today, Ross Lieberman (ACA) and the undersigned, Thomas Cohen (Kelley Drye & Warren LLP), met with Michael Steffen, Legal Advisor to Chairman Genachowski, and with Carol Mattey and David Zesiger from the Wireline Competition Bureau. The purpose of the meeting was to discuss the Commission's Connect America Fund Phase II cost model proceeding. ACA is most concerned that Phase II support made available to price cap local exchange carriers ("LECs") pursuant to the cost model (1) only be used in areas where there is no current or potential private sector business case for deployment and (2) be provided as efficiently, that is, it should be no more than the amount required to provide the Commission's mandated 4/1 Mbps broadband service to the particular location.

In the meeting, ACA focused primarily on the issue of ensuring the cost model results in the efficient distribution of support and the enormous consequence of choosing either the ABC Coalition (price cap local exchange carrier ("LEC")) greenfield fiber to the DSLAM ("FTTD") model design or ACA's proposed brownfield FTTD model design. From a physical standpoint, these two models employ the same architecture and network facilities – fiber feeder from the central office to the DSLAM and copper from the DSLAM to the premises. Yet, from a cost perspective, the greenfield FTTD build results in much greater amounts of support based on the fiction that the entire network from the central office to the premises is being built anew. In contrast, a brownfield FTTD model bases support on the fact that (1) where broadband service does not exist, the only new construction is new fiber feeder plant from the central office to the DLSAM and existing copper is re-used from the

DSLAM to the premises and (2) where broadband service exists and the location is higher-cost, no new plant is being built and only maintenance and operational costs need to be recovered.

ACA began by reminding the Commission that during the development of the CAF program the price cap LECs argued that they should receive a right of first refusal to receive support to build broadband in high cost areas they serve because they already had deployed infrastructure in those areas, and it would be wasteful for the Commission to strand that investment, much of which had been built using high-cost universal service support.[1] However, in proposing a greenfield FTTD build for the cost model, the price cap carriers are now effectively asking the Commission to ignore that existing infrastructure and instead give them funding as if they are going to build completely new infrastucture (which will in fact not occur).

ACA next elaborated on the substantial inefficiences that arise from using a greenfield FTTD model by discussing results from recent "post-Workshop" runs of the CostQuest model (CQBAT model) submitted by the ABC Coalition:

First, the model demonstrates that a brownfield FTTD build can serve the same number of unserved and higher-cost locations as the greenfield FTTD build for approximately $1 billion less annually or $5 billion less over the five year lifetime of Phase II support. The funding saved by a brownfield build could be used to reduce the universal service contribution rate paid by consumers or, as discussed below, expand the number of unserved homes that will receive broadband service.

Second, the model demonstrates that for the same amount of support, a brownfield FTTD build can serve a total of 8.4 million locations (including virtually all unserved locations) versus the 3.8 million locations served with a greenfield FTTD build.[2]

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1 *See e.g.*, Joint Comments of AT&T, CenturyLink, Fairpoint, Frontier, Verizon, and Windstream, Connect America Fund, WC Docket No. 10-90 et. al. at 12-13 (Aug. 24, 2011); Joint Reply Comments of AT&T, CenturyLink, Fairpoint, Frontier, Verizon, and Windstream, Connect America Fund, WC Docket No. 10-90 et. al. at 11-16 (Sept. 6, 2011). ("The Plan's right of first refusal is not designed to "tilt the competitive landscape in favor of the Price Cap incumbents," as some contend. Instead, it is a narrowly-targeted means of accelerating broadband deployment and preventing inefficient duplication of existing facilities. In short, it identifies those wire centers where a provider has made significant progress in deploying joint-use voice and broadband facilities and gives that provider an opportunity to extend those facilities to unserved households and businesses in those wire centers.")

2 Of the 3.8 million locations served under the ABC Coalition greenfield FTTD build, 1.8 million already have broadband service of 4/1 Mbps.

The consequences of using a greenfield FTTD model extends beyond wasting $5 billion dollars of consumer universal service contributions or failing to serve the nation's unserved homes. Private, unsupported entities will be harmed because price cap LECs will use the "excessive" funds to compete with them in unsupported areas. That is, because after using subsidies to either build the limited FTTD network (where existing copper continues to be used from the DSLAM to the location) or for maintenance and operations of existing 4/1 Mbps broadband plant (almost 50% of the supported locations), a price cap LEC has every incentive to use the remaining support where it can earn the best return on its investment – which is almost certainly in a lower cost service territory (assuming the remainder is not paid out to price cap LEC shareholders.) This is contrary to the Commission's objective of enabling growth in private sector deployments.

Finally, the model demonstrates that the amount of support per location that would be provided on average in a greenfield FTTD build is virtually identical to the amount of support in a greenfield FTTH build -- approximately $50/location/month in both instances. Yet, the broadband performance capabilities of these two networks are dramatically different – 4/1 Mbps (potentially 6/1.5 Mbps) for FTTD versus 100+ Mbps-1 Gbps currently for FTTH. Thus, if the Commission bases support on a greenfield FTTD model, it will be "paying" for an FTTH network but getting far inferior performance – performance that is in fact inferior to that provided today on most non-FTTH networks. If the Commission decides not to reduce the amount of support that the price cap LECs will receive or increase the number of unserved housing units they are required to serve, then the Commission should at least require them to use the support to build FTTH facilities to the 3.8 million housing units in the ABC Coalition plan.

ACA closed the meeting by discussing the many reasons why a brownfield FTTD build will provide price cap LECs with sufficient support to deliver broadband service to 8.4 million higher-cost and unserved locations:

- The brownfield model includes a 9% unlevered rate of return, which is above the cost of capital for price cap LECs.
- ACA accepts the cost floor proposed by the ABC Coalition, which triggers their willingness to accept support for 3.8 million higher-cost housing units.
- The CQBAT model overestimates a number of inputs, including SG&A costs.

And, if support is rejected, it is not necessarily because support is not sufficient. Rather, the Commission should recognize that each of the price cap LECs has different parameters that drive their overall strategic investment decisions.

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

Sincerely,

Thomas Cohen

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