

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )  
 )  
Wireline Competition Bureau Seeks Further ) WC Docket No. 10-90  
Comment on Issues Regarding the Design )  
Of the Remote Areas Fund )

To: Chief, Wireline Competition Bureau

**COMMENTS OF  
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Sections 1.415 and 1.419, hereby submits these Comments in response to the January 17, 2013 Public Notice of the Wireline Competition Bureau (“Bureau”) in the above-referenced docket (the “*Public Notice*”).<sup>1</sup> The *Public Notice* seeks “further detailed comment on issues relating to the implementation of the Remote Areas Fund as a portable consumer subsidy program.”<sup>2</sup> WISPA is pleased to provide comments and information in response to specific issues raised in the *Public Notice*.

WISPA represents the interests of wireless Internet Service Providers (“WISPs”) that rely primarily on unlicensed spectrum to provide *unsubsidized* fixed wireless broadband services. Many WISPs serve sparsely populated areas that are unserved by wireline carriers, including those carriers that have had the exclusive ability to obtain CAF Phase I and Phase II support. In such areas, which are often remote, WISPs are able to do on a highly cost-effective basis what wired platforms often cannot – devise and deploy cost-effective and affordable fixed broadband

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<sup>1</sup> Public Notice, *Wireline Competition Bureau Seeks Further Comment on Issues Regarding the Design of the Remote Areas Fund*, DA 13-69 (rel. Jan. 17, 2013) (“*Public Notice*”).

<sup>2</sup> *Id.* at 2.

service. Simply put, WISPs are best positioned to provide broadband service to remote areas now and in the future.

**I. Provider Eligibility Standards Should Be Streamlined So That Non-ETCs Can Participate in the Remote Areas Fund.**

The Bureau proposes that providers obtain “eligible telecommunications carrier” (“ETC”) designation in order to be eligible to receive support from the Remote Areas Fund (“RAF”).<sup>3</sup> This restriction would foreclose fixed broadband providers, who are best positioned to provide broadband service to remote areas, from participating in the RAF because, under current statutory interpretation, such broadband providers are not providers of “telecommunications services” eligible to obtain ETC status. WISPA encourages the Commission *not* to adopt a strict ETC eligibility standard, but rather to allocate RAF funding directly to consumers in the form of truly “portable” vouchers that could be used to obtain service from *any* terrestrial broadband provider.<sup>4</sup> Alternatively, the Commission should designate as ETCs, for the limited purpose of administering CAF-related programs like RAF, those broadband providers that have the capability of providing voice service; or, it should forbear from enforcing ETC rules in making RAF allocation determinations. As WISPA has explained before, “[w]hether an entity is an ETC has little bearing on whether it should be eligible to provide broadband services.”<sup>5</sup>

If the Commission should determine that the RAF program mandates ETC designation for participating providers, WISPA respectfully suggests that the Commission should rely on FCC precedent to deem providers of interconnected VoIP service to be “telecommunications

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<sup>3</sup> *Id.* at 11.

<sup>4</sup> *See infra* Section III.

<sup>5</sup> WISPA Comments, WC Docket No. 10-90, *et al.*, filed April 18, 2011, at 6.

carriers” for the limited purpose of administering universal service.<sup>6</sup> As a consequence, broadband providers that provide interconnected VoIP (or other telephony service) could be deemed ETCs for purposes of administering RAF.<sup>7</sup> In this manner, subsidies could be directed to areas of great need that otherwise might remain without broadband service if providers like WISPs are excluded, wholesale, from the RAF program.

Another option would be for the Commission to forbear from strictly enforcing any requirements that the Commission may construe as enabling only “telecommunications” carriers to obtain RAF benefits. Section 1302 of the Communications Act expressly recognizes “regulatory forbearance” as a tool the Commission can employ to “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans.”<sup>8</sup> Without question, the ability of fixed wireless broadband providers to receive RAF subsidies would expedite this objective in light of the cost and deployment advantages fixed wireless systems enjoy over wireline technologies. To the extent that such an approach would allow for participation in the RAF of fixed wireless broadband providers like WISPs, that are a natural “fit” for serving remote areas, WISPA encourages the adoption of such forbearance.

The *Public Notice* requests information about the “quality of the voice service that . . . WISPs are able to offer today, and over the next twelve months.”<sup>9</sup> WISPs have the ability to deliver VoIP service that is comparable to the quality of VoIP service provided over a wireline infrastructure. The *Public Notice* also asks about the “likelihood that . . . WISPs would enter partnerships with traditional voice providers, i.e., incumbent telephone companies, to fulfill

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<sup>6</sup> In several instances, the Commission has found that it has authority to treat interconnected VoIP providers as “telecommunications carriers” for certain purposes. *See, e.g., Telephone Number Requirements for IP-Enabled Services Providers*, Report and Order, 22 FCC Rcd 19531, 19538 (noting “four occasions” on which Title II requirements have been extended to VoIP providers).

<sup>7</sup> *See* WISPA Comments, WC Docket No. 10-90, *et al.*, filed Jan. 18, 2012, at 11-13.

<sup>8</sup> 47 USC § 1302(a).

<sup>9</sup> *Public Notice* at 11.

voice obligations in areas eligible for Remote Areas funding.”<sup>10</sup> WISPA believes that its members would be open to discussions with carriers on partnership opportunities that would leverage the ability of WISPs to provide cost-effective wireless services to remote areas where wireline technologies are too expensive to deploy, even with a subsidy or voucher.

**II. The Commission Should Use the National Broadband Map to Identify Unserved Census Blocks and to Allocate Remote Areas Funding, and Should Harmonize any Challenge Process with Those Adopted for Phase I and Phase II.**

The *Public Notice* seeks comment on the advisability of using the National Broadband Map (“NBM”) in lieu of a yet-to-be-developed forward-looking cost model to identify unserved areas that should be eligible for support from the RAF.<sup>11</sup> WISPA supports use of the NBM in this manner. Allocating RAF funding to areas that are designated as unserved on the NBM – that is, to census blocks that are shown as having no terrestrial wireless broadband service available – is a simple and straightforward method that will entail minimal administrative burden and will expedite distribution of support. Since the NBM is updated semi-annually, the Commission will be able to ensure that, over time and with a minimum of administrative overhead, RAF support is not provided to areas that become served.

WISPA encourages use of the NBM to identify eligible census blocks in areas served by both price cap carriers and rate-of-return carriers.<sup>12</sup> The critical issue in the proper determination of RAF funding eligibility is the current status of fixed broadband access in particular census blocks, not the historical designation of the incumbent carriers in those blocks. Broadband service – whether subsidized or unsubsidized – is either provided to a census block or it is not,

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<sup>10</sup> *Id.* at 11-12.

<sup>11</sup> *Id.* at 3.

<sup>12</sup> *See id.* at 3-4.

and the NBM should be the preferred mechanism for determining the status of service in all census blocks.

In the *Public Notice*, the Bureau inquires about the proper manner for structuring a challenge process to contest the designation of census blocks on the NBM as unserved or served prior to the allocation of RAF funding. WISPA submits that, if the Commission decides to adopt a mapping challenge process for the RAF, that process should mirror the process adopted for challenges in the allocation of Phase I and Phase II funding. Implementing multiple procedures and standards for CAF-related NBM challenges would serve no purpose, except the creation of needless complexity and confusion. Any RAF-related mapping challenges should commence only after eligible recipients have identified the census blocks that they propose to serve with RAF support. This would limit challenges to specific locations for which current NBM designation could affect funding allocations, thereby minimizing the burden on all parties, including the Bureau. In addition, successful challenges should require more than vague accusations; thus, WISPA believes that the challenge process should be governed by a “clear and convincing” evidentiary standard.<sup>13</sup>

**III. The “Portable Consumer Subsidy” Should be in the Form of a \$500, One-Time, Up-Front Voucher Provided Directly to the Consumer.**

The *Public Notice* requests input on the most advisable way to structure the RAF as a “portable consumer subsidy,” and the correct amount of the subsidy.<sup>14</sup> WISPA believes that the best implementation of a truly “portable consumer subsidy” would be a direct-to-consumer voucher, which consumers could then submit to qualified broadband providers at the time of installation of broadband service. Subsidies would therefore be a one-time payment, and would

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<sup>13</sup> See WISPA Comments, WC Docket No. 10-90, filed Feb. 19, 2013 (regarding CAF Phase II challenge process); WISPA Reply Comments, WC Docket No. 10-90, filed Feb. 11, 2013 (regarding CAF Phase I challenge process).

<sup>14</sup> See *Public Notice* at 5.

not require significant and ongoing tracking and monitoring. Such a program would have numerous additional benefits: it would be competitively and technologically neutral, it would reduce administrative costs and burdens, and it would follow in the footsteps of other successful voucher programs, such as those administered during the DTV conversion and the BIP Satellite program administered by RUS. Furthermore, such a system would ensure that consumers obtain the full and direct financial benefit of the subsidy, and that providers did not adjust the price of their services based on whether they will receive a subsidy. Adoption of a voucher program would allow *all* broadband providers – whether designated as ETCs or not – to participate in the RAF, thus widening the pool of potential participants and increasing the likelihood of prompt broadband buildout in remote areas.

As for the amount of the RAF subsidy, the *Public Notice* asks if \$200 in one-time support per location would be adequate. The \$200 figure was identified as the average of the amounts awarded under the RUS program to two satellite carriers. Curiously, the *Public Notice* failed to recognize that a third satellite provider, Spacenet, was awarded an amount of approximately \$600 per subscriber.<sup>15</sup> Be that as it may, WISPA respectfully suggests that \$200 is inadequate, especially in light of the fact that CAF Phase I provided \$775 per subscriber for areas that are not nearly as “remote” as those to be served under the RAF program. Still, WISPA is confident that WISPs can provide service to new subscribers in an extremely cost effective manner. Therefore, WISPA suggests that the per-household support should be set at \$500.

WISPA supports limiting RAF subsidies to one subsidy per household, and supports the suggestion in the *Public Notice* that the same definition for “household” that is used for the Lifeline program be used for the RAF. By limiting subsidies in such a manner, the Commission

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<sup>15</sup> See Press Release, Rural Utilities Service, Satellite Awards, Broadband Initiatives Program (Oct. 20, 2010), available at <http://www.rurdev.usda.gov/supportdocuments/BIPSatelliteFactSheet10-20-10.pdf>.

will ensure that more households have the potential to receive broadband connections. WISPA also supports self-certification by consumers that they are using RAF support only at their primary address.

### **Conclusion**

WISPA looks forward to the ability of its members to participate in the Remote Areas Fund. As providers of cost-effective fixed wireless broadband in rural and underserved areas, WISPs are best positioned to rapidly provide service to remote areas. WISPA's proposals in these Comments will help achieve the goal of universal broadband service to all Americans.

Respectfully submitted,

February 19, 2013

### **WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

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