

Before the
Federal Communications Commission
Washington, D.C.20554

In the Matter of)
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Connect America)
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Wireline Competition Bureau Seeks Further) WC Docket No. 10-90
Comments on Issues Regarding the Design of)
the Remote Areas Fund)
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**REPLY COMMENTS OF THE NEBRASKA RURAL INDEPENDENT COMPANIES IN
RESPONSE TO JANUARY 17, 2013 PUBLIC NOTICE**

Dated: March 18, 2013

The Nebraska Rural Independent Companies

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The Wireline Competition Bureau (the “Bureau”) issued a Public Notice on January 17, 2013, seeking comment on issues relating to implementation of the Connect America Fund Remote Areas Fund (the “RAF”).¹ The Bureau sought further detailed comment on implementing the RAF as a portable consumer subsidy program, defining the areas where RAF funding will be available, how to set the consumer subsidy, consumer eligibility, measures to keep the program within a defined annual budget, service provider participation, performance requirements, and accountability and oversight.²

On February 19, 2013, the Commission received comments from parties with various recommendations concerning the implementation of the RAF. The Nebraska Rural Independent Companies (“NRIC”),³ which provide telecommunications and broadband access service to some of the most rural, sparsely populated parts of America, appreciate the opportunity to submit these Reply Comments in response to the *RAF Public Notice* issued by the Bureau.

I. In Developing the RAF, the Commission Must Consider the Limitations of Satellite Service in Delivering Affordable Broadband Service and its Inability to Support Voice Service.

Among the problems the Commission will face if it decides to move forward to implement RAF is the quality of voice service provided by satellite and WISP providers. As the

¹ See Wireline Competition Bureau Seeks Further Comments on Issues Regarding the Design of the Remote Areas Fund, Public Notice, WC Docket No. 10-90 (Jan. 17, 2013) (the “*RAF Public Notice*”).

² *Id.* at para. 2.

³ The Companies submitting these Comments are: Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom Inc., and Three River Telco.

Blooston Rural Carriers note, even the Commission has asked whether satellite and WISP providers can provide quality voice service now or within the next twelve months.⁴ According to the Blooston Rural Carriers, service quality remains a problem for satellite and WISP services and such services simply will not work for the provision of voice service to some customer locations.⁵ NRIC has previously expressed concern as to whether satellite services are capable of delivering affordable voice and broadband services of a quality comparable to either fixed terrestrial or mobile wireless services.⁶

Eligible Telecommunications Carriers (“ETCs”) that receive RAF support will be required to provide voice service.⁷ However, there has been no demonstration that any satellite provider is now or will in the future be able to meet ETC status requirements pursuant to 47 U.S.C. § 214(e). According to ACS, currently few potential providers of RAF-supported services, such as satellite-based and wireless Internet service providers, have demonstrated the ability to meet this standard.⁸ Even the Satellite Broadband Providers recognize that this is

⁴ See Blooston Rural Carriers Comments at 2-3.

⁵ See *id.* at 3.

⁶ See NRIC Reply Comments in Response to August 3, 2011 Further Inquiry at 41 (Sept. 6, 2011). See Pennsylvania Commission Comments at 9 and fn. 17 which pointed out that “complaints involving satellite service have included latency (transmission delays through geosynchronous orbit satellites) for voice communications, as well as weather sensitivity that affects both voice and data satellite communications.” Based on member companies’ experiences, NRIC adds that satellite-based broadband services are inferior to terrestrial broadband as satellite services impose usage caps and limited speeds.

⁷ See Public Notice at para. 46 and fn. 59 recognizing 47 U.S.C. § 214(e)(1)(A) (requiring that ETCs “offer the services that are supported by Federal universal service support mechanisms”); and 47 C.F.R. § 54.101(b) (requiring ETCs to offer “voice telephony”). See *USF/ICC Transformation Order and FNPRM*, 26 FCC Rcd at 17672, para. 17 (stating that one of the Commission’s goals for universal service is to “preserve and advance universal availability of voice service . . .”).

⁸ See Alaska Communications Systems (“ACS”) Comments at 11-12.

problematic and that they may need to partner with terrestrial telecommunications carriers in order to participate in the RAF.⁹

NRIC believes that the primary principle of universal service – ensuring affordable and comparable services in the most-rural parts of the country – is being “turned on its ear” by the entire concept of the RAF. Toward that end, NRIC urges the Bureau to ensure that voice service will continue to be provisioned by the ETC in any high-cost locations that may ultimately be subject to RAF-only universal service funding. NRIC also notes that it is highly likely that very rural customer locations to which its member companies currently provide terrestrial-based broadband service may be considered for conversion to RAF-only support in the future, even though the investments in those locations are permissible under the Commission’s quantile regression-based caps.

NRIC urges the Bureau to consider these concerns as it continues to develop the best approach to implement the RAF.

II. Provision of RAF Support Must be Limited to High-Cost Areas that Currently Lack Terrestrial Broadband Service.

NRIC strongly supports a finding that RAF support should only be provided to customer locations that lack access to terrestrial broadband service and have been determined to be extremely high-cost and not prime for terrestrial-based investment. NRIC believes that both criteria must be met before any location may be considered eligible for RAF support.¹⁰ NRIC

⁹ See Dish Networks L.L.C.; EchoStar Technologies L.L.C.; Hughes Network Systems LLC (the “Satellite Broadband Providers”) Comments at 7.

¹⁰ This distinction is important because in the CostQuest Broadband Analysis Tool (“CQBAT”) and in the Connect America Cost Model (“CACM”), subscribers in areas where the model calculates cost above a specified dollar per-line per-month threshold, also referred to as the Alternative Technology Cost Cutoff, were excluded from modeled support without regard to whether or not the subscribers already had access to broadband service.

concur with the USTelecom recommendation that the Bureau should use both the cost model and a list of unserved locations generated through the CAF Phase II challenge process to determine areas eligible for the RAF (although it is an open issue as to whether the methodologies in CAF II and the cost models will ever apply to rate-of-return carriers).¹¹ According to USTelecom, identification of such areas involves two screens – one to determine areas where the cost of providing broadband service is “extremely high,” and the second to ensure that broadband service is not already available.¹² The RAF should only be available in areas that satisfy both criteria.¹³

It is noteworthy that even the Satellite Broadband Providers believe that RAF support should be limited to areas that currently lack terrestrial broadband service, and areas where the costs of terrestrial service are particularly high.¹⁴ Although the Blooston Rural Carriers agree that areas eligible for funding could be based on reported loop cost, they also take the position that the relevant loop cost should be limited to the cost of loops to the unserved area.¹⁵

Once an area has been accurately determined to be unserved by terrestrial broadband, NRIC concurs with the Rural Associations that RAF support should only be provided to areas that are the most costly to serve.¹⁶ The Rural Associations assert that “[i]f the Commission wishes to identify areas that are the most costly to serve, it should start with areas that *have*

¹¹ See United States Telecom Association (“USTelecom”) at 5.

¹² See *id.*

¹³ See *id.* at 5.

¹⁴ See Satellite Broadband Providers Comments at 1.

¹⁵ See Blooston Rural Carriers Comments at 4.

¹⁶ See Rural Associations Comments at 8.

already been identified in this proceeding as being too costly to support with traditional high-cost funding.”¹⁷ For example, RLECs impacted by the \$250/line/month support cap have demonstrated with reliable data that their areas are extremely costly to serve, and according to the Rural Associations, unfortunately these customers are now in danger of losing such service as a result of the \$250/line/month cap, and accordingly should be given first priority in developing pilot programs for operation of a new RAF.¹⁸ Similarly, the Satellite Broadband Providers argue that RAF support also should be available in areas where the cost of terrestrial broadband service is very high.¹⁹ NRIC agrees that RAF support should be prioritized to those subscribers in the in areas that are extremely costly to serve.

As the Bureau continues to develop the specific terms that will govern the RAF, NRIC urges the Bureau to only consider areas that are unserved with terrestrial broadband and for which the cost of terrestrial broadband service is very high.

III. The National Broadband Map Should not be Used to Determine Unserved Areas Until its Data is Confirmed to be Accurate.

The Bureau sought comments on the financial impact of making *all* census blocks shown as “unserved” on the National Broadband Map (“NBM”) eligible for RAF support, until deployment occurs in those areas.²⁰ NRIC concurs with the Rural Associations that, “[t]he record in this proceeding – and in several other proceedings – makes abundantly clear that the Commission should not rely on the NBM to make any factual determinations for purposes of

¹⁷ *See id.* (emphasis in original).

¹⁸ *See id.*

¹⁹ *See* Satellite Broadband Providers Comments at 3.

²⁰ *See RAF Public Notice* at para. 42.

providing or limiting CAF support in rural areas.”²¹ The Satellite Broadband Providers also agree that the NBM is not a reliable means of identifying unserved customers and is inaccurate.²²

The Blooston Rural Carriers also observe that there are significant issues regarding the accuracy of the data in the NBM on a census block basis, such that the NBM both “under-reports and over-reports the presence of providers in various serving areas.” Accordingly, the Blooston Rural Carriers do not support the NBM’s use in identifying census blocks in the study areas of rate-of-return ILECs which would be eligible for funding from the RAF.²³ Similarly, ARC argues against using the NBM to identify unserved census blocks as even the Commission has recognized that the NBM’s data overstates coverage in some areas and understates coverage in others.²⁴ Thus, the Bureau’s attempt to determine the financial impact of making all census blocks shown as unserved on the NBM eligible for RAF support should be held in abeyance at least until it is known that all such mapping data reported is complete and accurate.

IV. Implementing the RAF By Means of a Portable Consumer Subsidy Would be Problematic.

In the Notice, the Bureau sought to further develop the record regarding implementation details as to the structure of a portable consumer subsidy, how the amount of the portable consumer subsidy would be set, what restrictions, if any, should be placed on the service contracts that are supported by this subsidy, and how such a program could be designed to stay within a \$100 million annual budget.²⁵ The Bureau also sought to further develop the record on

²¹ See Rural Associations Comments at 5.

²² See Satellite Broadband Providers Comments at 3.

²³ See Blooston Rural Carriers Comments at 4-5.

²⁴ See ARC Comments at 17.

²⁵ See RAF Public Notice at para. 17.

the relative advantages and disadvantages of structuring the RAF as a one-time subsidy or a monthly retail subsidy.

Although the Bureau sought to further develop the record regarding the consumer subsidy issue, the record received regarding the numerous questions asked by the Bureau on this subject in the *RAF Public Notice* was noticeably sparse.²⁶ As noted by the Rural Associations, “[t]he Commission itself has not yet decided to adopt the portable consumer subsidy approach set forth in the *Further Notice*, nor has it analyzed or evaluated any of the alternative approaches identified therein.”²⁷

The Blooston Rural Carriers questioned whether a portable consumer subsidy is the most effective way to provide funding.²⁸ Their concerns were presented in light of the established problems of widespread fraud and abuse in the Lifeline program as evidenced by the Commission’s recent orders concerning the Lifeline program and the citations and Order issued to consumers apparently in violation of the program²⁹ With known concerns regarding the current Lifeline subsidy program, NRIC encourages the Commission to consider alternative approaches to direct consumer subsidies through which to distribute funding from the RAF.³⁰

²⁶ ViaSat Comments at 11 and the Wireless Internet Service Providers Association (“WISPA”) Comments at 2 support structuring RAF as a portable consumer subsidy.

²⁷ See The National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Western Telecommunications Alliance, and Eastern Rural Telecom Association (the “Rural Associations.”) Comments at 10.
“Rural Associations” Comments at 10.

²⁸ See Blooston Rural Carriers Comments at 3.

²⁹ *Id.*

³⁰ A review of FCC data by the *Wall Street Journal* showed that more than 40% of subscribers at five of the program’s top carriers were either ineligible or failed to show that they qualified for the program. See WSJ.com, “Abuse Concerns Grow on Phone Aid for Poor,” (Feb. 19, 2013).

According to ARC, consumer subsidies for satellite are utterly unworkable in Alaska, and, “the administrative costs and logistical challenges of implementing and maintaining a consumer voucher system would far outweigh the costs of providing direct support to carriers.”³¹ As ARC points out, carriers have already undergone an extensive, difficult, and time-consuming process to clean up consumer fraud in the Lifeline subsidy program.”³²

Similarly, the Rural Associations argue that a mechanism that would provide payments or vouchers directly to individual subscribers could be extremely unwieldy from an administrative point of view, and could result in burdens that outweigh any potential benefit perceived in bypassing the incumbent provider.³³

Given the lack of comments demonstrating the benefits of a direct consumer subsidy and the known abuses in the Lifeline subsidy program, NRIC agrees with the Rural Associations that, “if the Commission elects to move forward with full implementation of the RAF utilizing a portable consumer subsidy approach, it is essential once again as a matter of sound public policy and statutory mandate that the Commission proceed in a measured way.”³⁴

V. The RAF Should Initially be Implemented Utilizing Pilot Projects in Cooperation with the State Commissions.

As USTelecom and ACS observe, neither the cost model nor a list of unserved locations generated through a rigorous CAF Phase II challenge process are available at this time, and both commenters urge the Commission to complete implementation of the CAF Phase II mechanism

³¹ See Alaska Rural Coalition (“ARC”) Comments at 23.

³² See *id.* at 27.

³³ See Rural Associations Comments at 7.

³⁴ See *id.* at 4.

before developing the design of the RAF.³⁵ Likewise, NRECA urges the Commission to proceed cautiously with the implementation of the RAF until, for example, state-specific broadband cost models exist for every state and territory or until the NBM data is known to be accurate and reliable.³⁶

NRECA further recommends that the Commission should proceed cautiously in its initial implementation of the RAF, utilizing pilot projects in cooperation with state commissions and other state authorities to identify areas that are eligible for RAF.³⁷ The Rural Associations also urge the Commission to consider other alternatives raised as lines of inquiry in the *Further Notice of Proposed Rulemaking* and as otherwise proposed by commenters, including the adoption of one or more pilot programs for the RAF in cooperation with state commissions and other entities having knowledge of localized conditions in remote areas.³⁸ NRIC concurs with the Rural Associations that implementation of pilot programs would provide the Commission and state regulators with “real world” experience in dealing with the challenges of deploying broadband in extremely high-cost areas prior to implementing a national RAF program.³⁹

Given the concerns identified with portable consumer subsidies, questions surrounding the capability of voice service delivered via satellite, and the lack of data identifying extremely high-cost and unserved areas, NRIC believes that it is premature to implement the RAF other

³⁵ See USTelecom Comments at 5 and ACS Comments at 1.

³⁶ See National Rural Electric Cooperative Association (“NRECA”) Comments at 3.

³⁷ See NRECA Comments at 1.

³⁸ See Rural Associations Comments at 11.

³⁹ See *id.* at 3-4.

than through pilot programs working in cooperation with state commissions as recommended by the Rural Associations and NRECA.⁴⁰

VI. CONCLUSION

Based on the comments received in response to the *RAF Public Notice*, it is reasonable to conclude that the design and implementation of the RAF needs further development. There are legitimate concerns with the limitations of satellite service in its ability to deliver affordable broadband service and its ability to support voice service. In addition, there continue to be concerns expressed regarding the implementation of the RAF through portable consumer subsidies based on the experience of fraud and abuse in the Lifeline program. Further, extremely high cost areas that are unserved with terrestrial broadband have not yet been identified. Given these concerns, the Commission should proceed with caution and give serious consideration to initially utilize pilot projects in cooperation with state commissions in order to determine the appropriate design of the RAF.

⁴⁰ See Rural Associations Comments at 7, 9 and 11 and NRECA Comments at 1 and 3.

Dated: March 18, 2013.

Respectfully submitted,

Arlington Telephone Company, The Blair Telephone Company, Cambridge Telephone Company, Clarks Telecommunications Co., Consolidated Telephone Company, Consolidated Telco, Inc., Consolidated Telecom, Inc., The Curtis Telephone Company, Eastern Nebraska Telephone Company, Great Plains Communications, Inc., Hamilton Telephone Company, Hartington Telecommunications Co., Inc., Hershey Cooperative Telephone Co., K. & M. Telephone Company, Inc., The Nebraska Central Telephone Company, Northeast Nebraska Telephone Company, Rock County Telephone Company, Stanton Telecom, Inc., and Three River Telco

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