

**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

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

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, hereby replies to Comments filed in response to the January 17, 2013 *Public Notice* in the above-referenced docket regarding issues related to the Remote Areas Fund (“RAF”).¹

WISPA agrees with commenters who support streamlining RAF eligibility standards so that non-ETCs, who are best-positioned to provide fixed broadband service to remote areas, may obtain RAF support, and disagrees with commenters who state that RAF participants *must* be certified as ETCs. WISPA continues to believe that, for RAF allocation purposes, it is advisable to employ the National Broadband Map (“NBM”) in lieu of a yet-to-be-developed forward-looking cost model, and disagrees with commenters who believe that the NBM is unsuitable for this purpose. Lastly, WISPA disagrees with the comments of the Blooston Rural Carriers (“Blooston”), who urge exclusion from RAF eligibility of unserved areas in territories where rural rate-of-return (“ROR”) carriers operate.

¹ 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*”).

Discussion

I. WISPA Supports Streamlining RAF Eligibility Standards.

In the *USF/ICC Transformation Order*, the Commission expressly stated that

in extremely high-cost areas, available universal service support is unlikely to be sufficient for the deployment of traditional terrestrial networks supporting robust voice and broadband services. The Connect America fund can help fulfill our universal service goals in these areas by taking advantage of services such as next-generation broadband satellite service or wireless internet service provider (WISP) service, which already may be deployed (or may be deployable with modest upfront investments)....²

In considering ways to leverage these advantages and cost efficiencies, the Commission specifically requested public comment on the means by which the Commission could allow WISPs and others to qualify for ETC support. In its Comments, WISPA urged the Commission to expand eligibility to include WISPs through various means, including forbearance from enforcing requirements that recipients be ETCs.

Dish Network L.L.C., Echostar Technologies L.L.C., and Hughes Network System, LLC (the “Satellite Broadband Parties”) agreed that “the Commission should take steps to permit non-carrier entities to become eligible to receive RAF support.”³ Given the Commission’s recognition that non-ETCs, including WISPs, have infrastructure and cost advantages over traditional wireline carriers that can be leveraged to provide fixed broadband services in remote areas, excluding them from the RAF program would be enormously inefficient and detrimental to the public interest. WISPA agrees with the Satellite Broadband Parties that “[t]he Commission should use its authority under Sections 254 and 4(i) [of the Communications Act of 1934, as amended], as well as forbearance, to permit any broadband provider that offers the

² *In the Matter of Connect America Fund*, Further Notice of Proposed Rulemaking, WC Docket No. 10-90 (rel. Nov. 19, 2012) (“*FNPRM*”) at ¶ 1224.

³ Comments of Dish Network L.L.C., Echostar Technologies L.L.C., and Hughes Network System, LLC, WC Docket No. 10-90 (Feb. 19, 2013) at 7.

supported services and otherwise meets the public interest obligations imposed on support recipients to receive RAF support.”⁴ WISPA notes that it previously has suggested numerous methods by which the Commission could ensure the participation of non-ETCs in the RAF, including: allocating RAF funding directly to consumers in the form of vouchers to be used to obtain service from any terrestrial broadband provider; designating as ETCs (for the limited purpose of administering CAF-related programs) broadband providers that have the capability of providing voice service; and/or exercising forbearance from enforcement of the ETC rules in making RAF allocations.⁵ The Commission should modify its eligibility standards to allow qualifying WISPs to obtain RAF support so they can expeditiously provide cost-effective fixed broadband service to extremely high-cost areas, consistent with the Commission’s objectives.

WISPA disagrees with Alaska Communications Systems that providers *must* be certified as ETCs before participating in the RAF.⁶ As stated above, the Commission could avoid adopting a strict ETC eligibility standard and allocate RAF funding directly to consumers. Even if the Commission were to determine that the RAF program mandates ETC designation for participating providers, the Commission should rely on its precedents to deem broadband providers that provide voice services as “telecommunications carriers” for the limited purpose of administering universal service. As WISPA has noted, the Commission has, on numerous prior occasions, deemed providers of interconnected VoIP service to be “telecommunications carriers” for certain limited purposes.⁷

⁴ *Id.*

⁵ See Comments of the Wireless Internet Service Providers Association, WC Docket No. 10-90 (Feb. 19, 2013) at 2-3 (“WISPA Comments”).

⁶ See Comments of Alaska Communications Systems, WC Docket No. 10-90 (Feb. 19, 2013) at 10-11.

⁷ WISPA Comments at 2-3.

II. WISPA Continues to Support Use of the NBM in Determining RAF Allocations.

The Bureau proposes to “use the [NBM] to identify unserved census blocks and provide [RAF] support to those [unserved] areas until they become served with broadband that meets the Commission’s performance requirements.”⁸ WISPA continues to believe that this approach would be a simple, straightforward method of determining potential RAF-eligible areas, with minimal administrative burden. The alleged NBM inaccuracies complained of by commenters like the National Exchange Carrier Association (“NECA”), *et al.*⁹ are exactly the sort of issues meant to be addressed in the mapping challenge process, should the Commission implement that process.

III. RAF Funding Should be Available in All Eligible Census Blocks, Including Those Served by Rate-of-Return Carriers.

WISPA disagrees with Blooston, which propose that unserved portions of a rural ROR LEC’s service area should be excluded from potential RAF funding (unless, apparently, that funding goes to the ROR LEC).¹⁰ Blooston claims that to subsidize a competitive provider in such an unserved area would “adversely impact” the LEC by “dividing the study area” of the carrier and “undermin[ing] the ability of the rural ROR LEC to maintain services throughout its study area.”¹¹ Blooston further asserts that “carv[ing] out portions of the incumbent LEC study area for purposes of providing funding through [RAF] to a new provider” would somehow damage “an opportunity . . . to build off of the investment and federal funding already received by the rural ROR LEC.”¹²

⁸ *Public Notice* at 3.

⁹ Comments of the National Exchange Carrier Association, Incl., National Telecommunications Cooperative Association, Western Telecommunications Alliance, and Eastern Rural Telecom Association, WC Docket No. 10-90 (Feb. 19, 2013) at 4-6.

¹⁰ *See* Comments of Blooston Rural Carriers, WC Docket No. 10-90 (Feb. 19, 2013).

¹¹ *Id.* at 3-4.

¹² *Id.* at 4.

While adopting Blooston’s proposals might promote Blooston’s self-interests, it would clearly not benefit the greater public interest. Blooston fails to explain why unserved residents of rural ROR LEC service areas should not receive the same potential benefits, *i.e.*, broadband service provided by a competitive provider, as residents in areas served by price cap LECs.¹³ As WISPA explained in addressing the potential use of the NBM to identify RAF-eligible census blocks, “[t]he 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....”¹⁴ That a rural ROR LEC may in the past have received other forms of federal funding to support service in its service area is beside the point. In reality, if there are unserved census blocks in a rural ROR LEC’s designated service area, that incumbent carrier has *chosen* not to extend service to those areas. If a competitive provider is able to utilize RAF funding to provide service to those unserved areas, it should not be blocked from doing so due to the LEC’s past failure to extend such service, or vilified as somehow “carv[ing] out” portions of the carrier’s service area.

Conclusion

WISPA agrees with those commenters who support streamlining RAF eligibility to permit non-ETCs to participate, disagrees with commenters who believe that the NBM should not be used in making RAF funding determinations, and disagrees with Blooston’s proposition to

¹³ Blooston also fails to explain how the RAF has been “devise[d] around” satellite- and WISP-provided broadband, or why these technologies may not be “viable option[s].” *Id.* at 2. That Blooston apparently conducted a “quick review of websites devoted to the problems of satellite and WISP service” and concluded that “service quality remains an issue with these technologies” is particularly unavailing, and entirely unresponsive to any issue raised in the *Public Notice*. *Id.* at 3.

¹⁴ WISPA Comments at 4.

exclude from RAF funding eligibility unserved areas situated within territories partially served by rural ROR LECs.

Respectfully submitted,

March 18, 2013

**WIRELESS INTERNET SERVICE
PROVIDERS ASSOCIATION**

By: */s/ Elizabeth Bowles, President*
/s/ Matt Larsen, FCC Committee Co-Chair
/s/ Alex Phillips, FCC Committee Co-Chair
/s/ Jack Unger, Technical Consultant

Stephen E. Coran
F. Scott Pippin
Lerman Senter PLLC
2000 K Street, NW
Suite 600
Washington, D.C. 20006-1809
(202) 416-6744
Counsel to the Wireless Internet Service Providers Association