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THE BROADBAND ASSOCIATION

October 21, 2013

EX PARTE

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Response to American Cable Association ("ACA") and Nebraska Rural Independent Companies ("NRIC"); WC Docket No. 10-90

Dear Ms. Dortch:

The Price Cap Carrier Coalition (the "Coalition") herein responds to recent ex parte filings by the American Cable Association ("ACA") and the Nebraska Rural Independent Companies ("NRIC")[1] in WC Docket No. 10-90 questioning the use of Connect America Fund ("CAF") Phase II funding for Census Blocks ("CBs") that are located in or near urban areas that presumably would not be high-cost. As discussed below, the Connect America Cost Model ("CAM") is capable of determining whether a given CB is high-cost, and the fact that a high-cost CB may be surrounded by low-cost areas should not preclude it from receiving high-cost support.

ACA in an August 19, 2013 *ex parte* filing asked the Bureau to analyze such CBs "to determine whether support is warranted, and if it is not warranted, the Bureau should use its authority to address this issue." The Coalition supports the Bureau performing that investigation. However, as a policy matter, high-cost areas that may be surrounded by low-cost areas should not be excluded from funding merely because all adjacent areas are not high-cost. One of the advantages of a CB-based approach, such as that implemented by the CAM, is that it promotes the alignment of funding with the needs of specific areas. As long as there are appropriate housing units or small business locations in a CB, and the CB is not covered by an unsubsidized cable or fixed wireless broadband service, then the CB should be a candidate for funding. In other words, high-cost CBs as determined by the CAM in or near urban areas should be treated the same as high-cost CBs in other areas.

ACA highlighted several CBs in the Washington, DC and other urban areas that have high costs based on the June 25, 2013 solution sets for the CAM released by the Bureau. NRIC's presentation included in a September 6, 2013 ex parte appeared to recommend that no support

[1] Letter from Thomas Cohen, Kelley Drye & Warren, LLP, Counsel for the ACA, to Marlene H. Dortch, Secretary, FCC, (filed August 19, 2013; *Ex Parte*, WC Docket 10-90). Letter from Thomas Moorman, Woods & Aitken LLP, to Marlene H. Dortch, Secretary, FCC, (filed September 6, 2013, *Ex Parte*, WC Docket 10-90). With regards to the issues discussed herein, NRIC's ex parte appears to substantially repeat NRIC's Comments filed on June 17, 2013 in WC Docket No. 10-90, even though NRIC make no mention of previous comments in the ex parte summary.

should go to such locations. The Coalition has been aware of such results, and on examination of such CBs, we found that they had low densities consistent with other high-cost CBs more remotely situated. Following ACA's submission, the Coalition reexamined high-cost CBs in Washington, DC pursuant to the most recent release of the CAM. We found that the high-cost CBs were generally in open areas, often park lands, with very low housing densities. The Coalition would expect that similar CBs, though few in number, could be found in almost any large urban area. Also, the CAM reported that the high-cost Washington CBs were unserved by cable or other unsubsidized competitors. Certainly the lack of service by a cable company in a major urban area would provide additional support for the conclusion that the unserved CB is high-cost.

While it is worth verifying the accuracy of the underlying data driving these results, all high-cost locations not served by unsubsidized competitors should be eligible for CAF II funding. Nevertheless, if the Commission were to decide certain types of CBs should have no fundable locations, CostQuest could easily make changes to the CAM such that locations in such CBs would no longer be eligible for CAF II funding.

On a related topic, the NRIC find "the current funding threshold is too low" as it is substantially below what they identified as an "expected revenue stream" of $77.60 using a voice and broadband rate of $97 per month, apparently based on selective use of information mentioned in a Public Notice.[2] Furthermore, the NRIC apparently believe that a higher threshold may resolve the concerns about high costs in certain CBs in non-rural areas. The Coalition views that the revenue threshold is ill-suited to resolve the concern regarding high-cost CBs in generally lower-cost areas. In addition, the Coalition in a September 3, 2013 *ex parte* recommended a realistic revenue range between $40.83 and $54.83 per month for customers subscribing to both voice and broadband services. Consequently, the Coalition is skeptical about the appropriateness of NRIC's expected revenue stream.

The $97 rate that is proffered by the NRIC apparently is the sum of two comparable benchmark figures that the NRIC found in the Public Notice – a $36.52 voice rate benchmark[3] and a $60 broadband rate figure intended for possible use in the remote areas fund as an urban area benchmark.[4]

It is important to recognize that the benchmarks used by the NRIC were not created for the purpose of identifying the expected rates for voice or broadband services. A closer reading of the Public Notice and its sources yields an urban "Representative Monthly Charge" of $25.62 for flat-rate residential local services as of October 15, 2007, and the $35.52 voice rate

[2] Public Notice, "Wireline Competition Bureau Seeks Further Comments on Issues Regarding the Design of the Remote Areas Fund," DA 13-69, released January 17, 2013. However, the $97 amount reported by NRIC is more plausible than the majority of the revenue range from $95.57 to $130 included in NRIC's Comments filed on June 17th.
[3] Public Notice, ¶¶20 and 23.
[4] Ibid., ¶23.

benchmark is two standard deviations above the representative charge.[5] It is also clear that the $60 amount is a hypothetical rate also intended to be above actual broadband rates, which the Public Notice identified as being between $45 and $49.94 per month. Thus, based on the sources relied upon by the NRIC, subscriber rates for both voice and broadband services more accurately fall between $70.62 and $75.56 per month.

The NRIC used a take rate of 80 percent for both voice and broadband services. The Coalition in its September 3, 2013 ex parte views an 80 percent take rate for voice services as unrealistic and recommended using a 60 percent take rate for voice services. Using the Coalition's take rates, the rates for voice and broadband services using appropriate rates identified in the Public Notice yield a revenue range of $51.37 (60 percent times $25.62 plus 80 percent times$45.00) to $55.32 (60 percent times $25.62 plus 80 percent times$49.94). This corrected range is likely still too high, because it does not appear to recognize promotional rates for broadband services. Nevertheless, this corrected range overlaps the Coalition's recommended range.

Sincerely,

Robert Mayer
Vice President
Industry and State Affairs

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[5] Industry Analysis & Technology Division, Wireline Competition Bureau, *Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Services* (2008), Tables 1.1 and 1.13, http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-284934A1.pdf.