

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of  
Connect America Fund  
A National Broadband Plan for Our Future  
Establishing Just and Reasonable Rates for  
Local Exchange Carriers  
High-Cost Universal Service Support  
Developing a Unified Inter-carrier  
Compensation Regime  
Federal-State Joint Board on Universal Service  
Lifeline and Link-Up

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WC Docket No. 10-90  
GN Docket No. 09-51  
WC Docket No. 07-135  
  
WC Docket No. 05-337  
CC Docket No. 01-92  
  
CC Docket No. 96-45  
WC Docket No. 03-109

**COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION  
AND THE PEOPLE OF THE STATE OF CALIFORNIA**

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## I. INTRODUCTION

The California Public Utilities Commission and the People of the State of California (California or CPUC) submit these comments in response to the above-captioned *Further Notice of Proposed Rulemaking (FNPRM)*.<sup>1</sup> In the *FNPRM*, the Federal Communications Commission (FCC or Commission) seeks comment on certain specific details of the rural broadband experiment it adopted on January 31, 2014.<sup>2</sup>

The FCC sets forth its goals for the experiment as follows:

the experiment will test how tailored economic incentives can advance the deployment of next generation networks, both wireline and wireless, in rural, high-cost areas of the country, including Tribal lands. In this experiment, Connect America funding will be available to entities to deploy high-speed, scalable, IP-based networks. The Connect America Fund<sup>3</sup> is a key element of the Commission's universal service reforms to ensure that rural consumers, businesses, and anchor institutions have access to next generation networks. Consistent with the Commission's goals of bringing robust, scalable broadband networks to rural, high-cost communities across America, and gaining experience and data on how to ensure universal access as networks transition, this experiment is designed to help inform our policy decisions in various proceedings pending before the Commission.<sup>4</sup>

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<sup>1</sup> Further Notice of Proposed Rulemaking; *In the Matter of Connect America Fund*, WC Docket 10-90, (FCC 14-5), Part VII, ¶¶ 202 -224, rel. January 31, 2014. (*FNPRM*)

<sup>2</sup> Report and Order, Next Generation Network Experiments in Rural America, *In the Matter of Connect America Fund*, WC Docket 10-90, (FCC 14-5), ¶¶ 86-137, rel. January 31, 2014. (*Order*)

<sup>3</sup> On November 18, 2011, the FCC released the USF/ICC Transformation Order & FNPRM (FCC 11-161), reforming the high-cost component of universal service by phasing out existing mechanisms, eliminating identical support, and introducing the Connect America Fund, including an explicit Intercarrier Compensation (ICC) recovery mechanism. The FCC adopted these comprehensive reforms to modernize the High Cost Program and accelerate the build-out of robust broadband networks across the country. The Order outlines how existing High Cost Program support will be phased out and the Connect America Fund, including a new ICC recovery mechanism, will be phased in. The Connect America Fund is focused on supporting and expanding fixed location and mobile broadband availability. The size of the Connect America Fund, including legacy high-cost support, is frozen at \$4.5 billion. [See website of the Universal Service Administrative Company (USAC).]

<sup>4</sup> *Order*, ¶92.

California is a national leader in state support for broadband deployment and adoption.<sup>5</sup> The CPUC supports the Commission’s decision to explore innovative ways to bring advanced communications services to unserved high cost areas of the country, and urges the FCC to consider providing subsidies to non-traditional providers of broadband services as part of the rural broadband experiment.

## II. DISCUSSION

In the *FNPRM*, the FCC states its intent to use a limited amount of unallocated monies in the federal Connect America Fund (CAF) reserve account to subsidize a number of “rural broadband experiments: to bring broadband to end users in unserved high cost areas of the country”. The FCC asserts that utilizing some of the unallocated CAF funds for these experiments could serve multiple objectives:

- It would enable the FCC to better design the final competitive bidding process that will be used nationwide to award CAF support in price cap territories to the extent the price cap carrier declines to make a state-level commitment;
- It would enable the FCC to provide funding for technology experiments across the country (not limited to areas where the incumbent provider is a price cap carrier), which will help inform future decisions regarding implementation of the CAF in areas where the incumbent is a rate-of-return carrier; and
- It would help the FCC identify ways to use the various federal universal service programs together to meet the challenges of providing universal access in rural America.<sup>6</sup>

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<sup>5</sup> See the California Advanced Services Fund (CASF); the California Teleconnect Fund (CTF), the California Telehealth Network (CTN), the California Emerging Technology Fund, and the California Broadband Council.

<sup>6</sup> *FNPRM* at ¶203.

**A. Experiments in Areas Where the Incumbent is a Rate-of-Return Carrier**

The NTCA<sup>7</sup>, an association of rural rate-of-return (ROR) carriers, suggests that the FCC should provide incumbent ROR carriers an initial window to submit applications for the experiments, in advance of soliciting applications from other parties. NTCA also recommends that the FCC allow the ROR carrier to undertake the same deployment proposed by a non-incumbent for the same or a lesser amount of support. The FCC seeks comment on these proposals.<sup>8</sup>

The CPUC does not support giving incumbent ROR carriers priority treatment in the awarding of CAF monies for purposes of the rural broadband experiment. ROR incumbents already receive federal high-cost subsidies and, in states such as California, also receive state high-cost subsidies, to facilitate deployment of service to all high-cost areas within their territories. If the incumbent has not deployed (or planned to deploy) advanced services in certain parts of the incumbent's service area, it may be that the carrier has determined that the unserved area is not economical to serve even with the current high-cost support the carrier receives.

At the same time, it is possible that other service providers using different technological solutions may be able to deploy broadband and voice service in these unserved areas at a lower cost. Permitting non-traditional service providers to compete to participate in these experiments on the same footing as the incumbent ROR carrier, will help the FCC reach its stated goals for these experiments -- to speed innovation and

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<sup>7</sup> NTCA – The Rural Broadband Association; the National Exchange Carrier Association, Inc.; the Western Telecommunications Alliance; and the Eastern Rural Telecom Association.

<sup>8</sup> *Id.*, ¶ 207.

identify more effective ways to bring advanced services to all Americans,<sup>9</sup> and “to better understand the viable business models that could support the deployment of fiber or other next generation wired technology in rural areas despite the challenges....”<sup>10</sup>

The FCC also seeks comment on allowing proposals for rural broadband experiment in areas where the incumbent is an ROR carrier to be made at the census block level in lieu of the census tract level, in recognition that smaller providers may wish to develop proposals for smaller geographic areas.<sup>11</sup>

The CPUC supports this proposal. Some of the census tracks in rural areas of California are very large. Permitting deployment by census block will allow smaller providers to participate and will permit the applicant to focus on local solutions that may be more suitable to the rural area in question.

Finally, the CPUC notes the recent legislative expansion of the California intrastate broadband deployment grant program, the California Advanced Services Fund, to include entities which do not hold a Certificate of Public Convenience and Necessity (CPCN) (or equivalent under state law), nor partner with a holder of a CPCN (or equivalent). The CPUC supported this legislative change because California has found that in remote areas, incumbents are unwilling to deploy broadband for lack of a valid post-deployment business plan. Accordingly, smaller entities and/or public-private partnerships, some using alternative technologies, are seeking grants to fill the gap. This expansion of the CASF is new, and the CPUC does not yet have any data to share with

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<sup>9</sup> *Id.*, ¶ 6.

<sup>10</sup> *Id.*, ¶ 90.

<sup>11</sup> *Id.*, ¶ 209.

the FCC. At the same time, California suspects that other states have encountered similar situations which could support FCC consideration of similar action, although such a move might require a concomitant change in federal law.

## **B. Selective Criteria for Rural Broadband Experiments**

The FCC proposes overarching criteria for selecting which specific experiments will receive CAF subsidies, as follows:

- cost effectiveness;
- the extent to which the applicant proposes to build robust, scalable networks;
- the extent to which applicants propose innovative strategies to leverage non-Federal governmental sources of funding, such as State, local, or Tribal government funding ; and
- whether applicants propose to offer high-capacity connectivity to Tribal lands<sup>12</sup>.

The FCC further proposes that cost effectiveness be the primary criteria in evaluating which applications to select for the experiment.<sup>13</sup>

The CPUC supports these overarching criteria, with one exception. Cost effectiveness should not necessarily always be the primary criterion. Any of the criteria could be the primary one, depending on the specifics of the proposed experiment.

California also urges the FCC to add a fifth criterion. When choosing among applicants and allocating CAF monies to rural broadband experiments, the FCC should take into account the proportion of a State's contributions to the Universal Service Fund

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<sup>12</sup> *Id.*, at ¶¶ 211- 216.

<sup>13</sup> *Id.*, at ¶213

(USF). This additional criterion would be of particular interest to California, which is a net contributor to the USF.

The FCC further seeks comment on what information it should require applicants to include in their formal proposals for rural broadband experiments, and lists numerous suggestions.<sup>14</sup> The FCC specifically asks whether applicants perhaps should include in their broadband experiment proposals the potential for deployment to anchor institutions.

The CPUC supports the list of information that the FCC suggests applicants should include in their proposals. In particular we want to emphasize the importance of deployment to anchor institutions in these remote areas. We voice strong support for projects that would connect schools, libraries, hospitals and clinics, government agencies etc. to robust, scalable broadband networks. Applicants should include in their application the number of such institutions physically located within the proposed census tracts/blocks that would be potential beneficiaries of the experiment.

The Commission also asks if there should be flexibility to deviate from the scoring system it adopts in order to achieve diversity of projects, both in terms of geography and types of technologies.<sup>15</sup>

The CPUC urges the FCC to ensure diversity in terms of both geography and types of technologies when choosing among the applications. A trial of the type the Commission proposes offers the applicants and the FCC the opportunity to glean

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<sup>14</sup> *Id.*, ¶218.

<sup>15</sup> *Id.*, ¶217.

considerable information. The broader the base from which that data is drawn, the more useful it will be to the FCC, the applicants, and the states.

### **III. CONCLUSION**

The CPUC for the most part supports the proposals on which we comment here, and offer some additional proposals for the FCC to consider.

Respectfully submitted,

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