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Executive Summary

USTelecom shares the Commission's goal of ensuring cost-effective and universal broadband connectivity in rural America. It is important to maintain a strong focus on protecting and enhancing universal access, particularly during this time of rapid technological and market change.

The rural broadband experiments, which the Commission hopes will provide it with useful information to guide future policy determinations, should not distract the Commission from completing needed and overdue universal service reforms already adopted. These reforms have been underway for more than two years. The Commission should promptly complete the CAM, a challenge process to finalize the list of support-eligible census blocks and resolution of the ETC framework for Connect America Recipients. The Commission should also focus on encouraging continued, reasonable investment by rate-of-return carriers by eliminating the existing Quantile Regression Analysis and implementing a transition to a mechanism that would fund broadband-only lines and create regulatory certainty. The best way to enhance widespread broadband availability within the Commission's budget is to push forward with CAF Phase II and planned reforms to the rate-of-return USF program.

The budget for rural broadband experiments should be approximately at the approximately \$50 million to \$100 million level originally contemplated. This recommended level of funding is more than enough to fund a wide variety of broadband experiments that are carefully selected for their ability to advance the Commission's knowledge regarding the scalability of deployment methods.

Rural broadband experiment proposals should be evaluated solely on cost-effectiveness. USTelecom agrees with the proposal in the Further Notice that cost effectiveness be the primary criteria in evaluating applications for rural broadband experiments. In fact, it should be the *only* criterion for selection. The Commission would be well served by using the rural broadband experiments to inform the development of a viable, scalable competitive bidding process for distributing any CAF Phase II support not accepted by price cap carriers. Experimenting with a complex bidding process that weights multiple criteria different than those adopted for CAF Phase II does not advance the process of developing a competitive bidding process that will result in widespread broadband deployment within the high-cost program budget the Commission has set. The rural broadband experiments should have standard objective criteria.

The service requirements for rural broadband experiments should mirror CAF Phase II service requirements. While applicants certainly may submit proposals to provide service that exceeds the minimum performance levels established by the Commission (just as those electing CAF Phase II support will often exceed performance levels in a substantial portion of the areas in which they build out), changing those minimum performance levels for the rural broadband experiments by establishing a weighting system fundamentally threatens the viability of the budget and structure of the high-cost portions of the Commission's USF/ICC Transformation Order and renders the experiments less useful in informing a workable competitive bidding process for distributing CAF support not accepted pursuant to a state-side commitment.

The Commission should not provide broadband experiment funding to serve locations in which broadband is already provided, even if the overlap is "de minimis." Preliminary review of the expressions of interest shows that a substantial portion, if not the vast majority, include proposals to overbuild areas that already have service. The very limited amount of funding

available for broadband build-out should not be spent on duplicating facilities; providing support for overbuilding is entirely inconsistent with the universal service framework set forth in the USF/ICC Transformation Order.

As long as recurring support is limited to a specified term of years for the rural broadband experiments, the Commission need not decide whether to adopt several recurring payments or a one-time payment (as plant is built out). A competitive bidding structure allows applicants to determine the net present value of a multi-year (recurring) payout and to request that funding up front. Adoption of a one-time payment approach also simplifies Commission budgeting. Recurring support would require retention of reserves for long periods to fund experiments, while a one-time payment allows the Commission to allocate the funding to the years in which the build-out occurs.

Interestingly, the Further Notice concludes that “support provided through the Phase II experiment may be provided up to ten years,” while the USF/ICC Transformation Order determined that the appropriate time period for ongoing CAF Phase II support should be 5 years. It is worthwhile exploring how altering the term of recurring support changes the economics of building broadband infrastructure and providing service in unserved rural areas. The Commission should consider offering an identical term of 10 years to cost model-based support recipients, particularly if such an option would allow the build out of the type of facilities that would better fulfill the Commission’s goal of encouraging entities to make the necessary long-term investment to build robust future-proof networks in areas that are uneconomic to serve.

USTelecom proposes a two-stage process evaluating submitted applications that otherwise meet the Commission’s criteria (i.e., CAF Phase II performance requirements, no competitive overlap). In Stage 1, bidders would specify the census tracts and locations therein which they propose to serve. All winning and uncontested applications from all census tracts nationwide would move forward to Stage 2.

Stage 2 would determine which applications would achieve the most cost-effective broadband solution in light of the CAF budget. This would be accomplished through indexing and national ranking of the eligible applications. Each application received from Stage 1 would be indexed against the Cost Allocation Model (CAM) cost for the same census tracts covered by the application. Bidders could apply to serve fewer than 100 percent of the model-recognized locations within their specified census blocks but would be assessed a penalty against their index.

To the extent support is awarded in the experiment prior to the offer of model-based support to price cap carriers, the Bureau should remove those areas from the state-level commitment and adjust the offer of support to account for the affected census blocks. USTelecom endorses the suggestion in the Further Notice that this could be accomplished by adjusting the extremely high cost threshold to make additional census blocks eligible, given the Phase II budget, without disturbing the list of otherwise eligible census blocks. The incumbent price cap carrier should be relieved of its Eligible Telecommunications Carrier (ETC) high-cost obligations for the area when support is awarded to another entity.

USTelecom does not object to the inclusion of areas served by rate-of-return incumbents in areas eligible for rural broadband experiment funding. But such inclusion should not create additional delay and regulatory uncertainty for those incumbents. Rate-of-return carriers should not have to wait for the completion and evaluation of experiment projects before support for broadband-only lines is implemented. The rate-of-return industry has provided a simple and credible method for the Commission to provide such support. That method could be structured

to fit into the current high-cost budget allocated to areas served by rate-of-return carriers. There is no need for the Commission to make rate-of-return carriers and their customers potentially wait for years while the Commission uses the results of the rural broadband experiments to develop “a potential pathway to longer term reforms regarding support for broadband-capable infrastructure in such areas.” USTelecom also supports the suggestion by NTCA that the Commission provide incumbent rate-of-return carriers an initial window to submit applications for areas within their own service areas for the experiment, in advance of soliciting applications from other parties, and also should allow rate-of-return carriers to undertake the same deployment proposed by a non-incumbent for the same or a lesser amount of support.

year examination of the Commission’s policies. They followed on the recommendations set forth in the National Broadband Plan, and incorporated information gleaned from the specially created Broadband Assessment Model and from comments submitted by hundreds of stakeholders.

As a result of that examination—and consistent with the statutory objective of universal service and agency goals of ensuring availability of broadband while minimizing the universal service contribution by end users—the Commission developed a balanced and nuanced policy framework. It prioritized the deployment of broadband service of at least 4 Mbps downstream and 1 Mbps upstream in high-cost areas, recognizing that this threshold would provide consumers with the ability to use critical broadband applications within the existing budget for the USF high-cost program. It provided a relative increase in support to the traditionally underfunded high-cost areas currently served by price cap carriers, acknowledging the need to eliminate the existing “rural-rural” divide. And it began the development of a Connect America Cost Model (CAM) that will estimate the support necessary to serve high-cost areas and derive a support amount that will be offered to price cap carriers—who are uniquely situated to deploy broadband rapidly and efficiently in their service areas³—in return for a state-level service commitment.

These reforms have been underway for more than two years. The Commission states that it “expects to implement the offer of model-based support to price cap carriers before the end of 2014”⁴ and this is achievable if the Commission focuses on the remaining open issues, such as completion of the CAM, a challenge process to finalize the list of support-eligible census blocks, and resolution of the ETC framework for Connect America Fund recipients. USTelecom urges

³ See *USF/ICC Transformation Order* at ¶ 177.

⁴ See *Further Notice* at ¶ 98.

the Commission not to permit the planned “rural broadband experiments” to divert resources from the completion of these tasks and the implementation of CAF Phase II by the end of the year.

Likewise, the Commission in the USF/ICC Transformation Order articulated an intention to transition support for rate-of-return carriers to a broadband-focused mechanism.⁵ While this process is less far along than the price cap reforms, the Commission should focus on encouraging continued, reasonable investment by rate-of-return carriers by eliminating the existing Quantile Regression Analysis and implementing a transition to a mechanism that would fund broadband-only lines and create regulatory certainty.

The incumbent rural voice and broadband providers represented by USTelecom, both price cap and rate-of-return, have vast knowledge and experience in assessing and meeting the challenges of providing voice and advanced services in meeting the geographic, demographic and topographic challenges inherent in rural America. We are confident that the ambitious and fiscally responsible approaches to broadband buildout undertaken by our members will be validated by the results of the rural broadband experiments. The basic economics of broadband network-building recognized in the National Broadband Plan have not changed and will not change. Broadband expansion involves building fiber out deeper in the network, closer to customers, but building fiber to every home in rural areas is well beyond the Commission’s budget. The best way to quickly enhance widespread broadband availability within the Commission’s budget is to push forward with CAF Phase II and planned reforms to the rate-of-return USF program.

⁵ See *USF/ICC Transformation Order* at ¶ 1031.

II. The Budget for Rural Broadband Experiments Should Be Approximately \$50 - \$100 Million

While the Commission should allocate monies sufficient to fund a variety of rural broadband experiments that are designed to provide actionable information for future Commission efforts to enhance universal access, it should avoid dedicating so much funding to the experiments that they become another CAF Phase I-like program that pulls Commission resources away from the broader universal service objectives. The Commission should be a careful steward of universal service funding and provide funding for the rural broadband experiments at the approximately \$50 million to \$100 million level originally contemplated. Allocating more than \$100 million for the rural broadband experiments would be an inappropriate use of USF support given the lack of strict guidelines or obligations and the loosely defined “experimental” quality of effort. This recommended level of funding is more than enough to fund a wide variety of broadband experiments that are carefully selected for their ability to advance the Commission’s knowledge regarding the scalability of deployment methods.

III. Rural Broadband Experiment Proposals Should be Evaluated Solely on Cost-Effectiveness

USTelecom agrees with the proposal in the Further Notice that cost effectiveness be the primary criteria in evaluating applications for rural broadband experiments.⁶ In fact, it should be the *only* criterion for selection. Given the Commission’s intention to make the offer of model-based support to price cap carriers before the end of 2014,⁷ the Commission would be best served by using the rural broadband experiments to inform the development of a viable, scalable

⁶ See *Further Notice* at ¶ 213.

⁷ See *Further Notice* at ¶ 98.

competitive bidding process for distributing any CAF Phase II support not accepted by price cap carriers.⁸ Experimenting with a complex bidding process that weighs multiple criteria different than those adopted for CAF Phase II does not advance the process of developing a competitive bidding process that will result in widespread broadband deployment within the high-cost program budget the Commission has set. The rural broadband experiments should have standard objective criteria to help evaluate the cost-effectiveness of various technologies across the country, and should advance the Commission's knowledge regarding scalable, cost-efficient broadband deployment in rural areas. Below, USTelecom presents a detailed proposal for an objective process to select experiments.

Adding in subjective criteria, establishing a point system, assigning additional weight to a variety of criteria, leveraging of non-Federal sources of funding, or other criteria will result in a Rubik's cube of options which would vastly complicate requests for proposals and selection of winners for the experiment itself. More importantly, an abundance of variables would make it harder to learn from the experiment as a model for a post-ROFR competitive. Americans in rural America have waited long enough for access to broadband. They should not have to wait longer due to delays caused by an overly contentious, complex and subjective competitive bidding mechanism design.

A. The Service Requirements for Rural Broadband Experiments Should Mirror CAF Phase II Service Requirements

To create a workable, transparent process for selecting experiments, the Commission should require participants to deploy broadband meeting its already-specified performance and pricing metrics, and should refrain from giving additional credits to applicants offering faster services, high usage allowances, higher speeds to schools of a certain size, non-Federal

⁸ See *Further Notice* at ¶ 102.

government sources of funding, or service to tribal lands. As noted above, the Commission established the CAF performance metrics—including speeds, latency, usage capacity, and pricing—with an eye toward supporting ubiquitous access to sufficient broadband within a limited budget. Though many rural Americans will receive service at speeds far in excess of the 4 Mbps download/1 Mbps upload requirement set by the Commission,⁹ the Commission rightly has recognized that overly ambitious minimum performance metrics would not correspond with the program budget.¹⁰ While applicants certainly may submit proposals to provide service that exceeds the minimum performance levels established by the Commission (just as those electing CAF Phase II support will often exceed performance levels in a substantial portion of the areas in which they build out), changing those minimum performance levels for the rural broadband experiments by establishing a weighting system fundamentally threatens the viability of the budget and structure of the high-cost portions of the Commission’s USF/ICC Transformation Order and renders the experiments less useful in informing a workable competitive bidding process for distributing CAF support not accepted pursuant to a state-side commitment.

Likewise, the Commission should avoid complicating the rural broadband experiment process in order to “identify ways to use ... various universal service programs together to attack in a coordinated fashion the challenges of universal access in rural America.”¹¹ The interplay of the various universal service support programs including High-Cost, Lifeline, E-Rate and Rural

⁹ See, e.g., Letter from Robert Mayer, Vice President, Industry and State Affairs, USTelecom, to Marlene H. Dortch, Secretary, FCC, Docket No. 10-90 (August 27, 2013); Letter from Malena F. Barzilai, Senior Counsel, Government Affairs, Windstream to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (April 8, 2013).

¹⁰ See September Commission Meeting, National Broadband Plan Presentation, September 29, 2009, p. 45 (available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293742A1.pdf) (visited March 25, 2014).

¹¹ See *Further Notice* at ¶ 203.

Health Care supports an important area of policy development, but it does not appear that the rural broadband experiments are or could be structured in such a way as to provide insight into the best ways to develop synergies among the programs and at the same time leverage limited universal service funding resources. Development of policy on that issue is best accomplished through a separate process or proceeding; the primary goal of these experiments should be to inform the development of a viable and scalable competitive bidding process to use in places where the incumbent declines the state-level commitment.

B. Rural Broadband Experiments Should Include No Competitive Overlap

The Commission should not provide broadband experiment funding to serve locations in which broadband is already provided, even if the overlap is “de minimis.” Preliminary review of the expressions of interest shows that a substantial portion, if not the vast majority, include proposals to overbuild areas that already have service. The very limited amount of funding available for broadband build-out should not be spent on duplicating facilities; providing support for overbuilding is entirely inconsistent with the universal service framework set forth in the USF/ICC Transformation Order.¹²

USTelecom’s members understand that deploying broadband to unserved areas—which in many cases requires the placement of new fiber—may require the building of facilities in areas that are served. However, parties should not be able to seek or receive funding for the cost of deploying broadband to locations that are already served, and the cost effectiveness of project proposals should be measured by the cost per unserved location within an eligible area. In addition to being inconsistent with the Commission’s universal service policy, funding “de minimis” overlap would create an unacceptable level of complexity in the process of evaluating

¹² See USF/ICC Transformation Order at ¶ 24.

projects; how would “de minimis” be measured – by percent of project cost, geographic area, or locations served? Finally, permitting funding for “de minimis” overlap would render the rural broadband experiments less useful as a test bed to inform future the development of a CAF Phase II competitive bidding process, because funding for areas with competitive overlap is not permitted in that program.

C. A One-Time Payment is Simpler to Administer and Will Better Inform the Commission

As long as recurring support is limited to a specified term of years for the rural broadband experiments, the Commission need not decide whether to adopt several recurring payments or a one-time payment (as plant is built out). A competitive bidding structure allows applicants to determine the net present value of a multi-year (recurring) payout and to request that funding up front. In this regard, the rural broadband experiments structure can be distinguished in this regard from the CAF Phase II cost model approach. In that case, the support level is not determined by the applicant but by the model and the net present value option is not available.

Adoption of a one-time payment approach simplifies Commission budgeting. Recurring support would require retention of reserves for long periods to fund experiments, while a one-time payment allows the Commission to allocate the funding to the years in which the build-out occurs, presumably no more than the interim deadline of three years allowed the carriers electing support through CAF Phase II.¹³

Interestingly, the Further Notice concludes that “support provided through the Phase II experiment may be provided up to ten years,”¹⁴ while the USF/ICC Transformation Order determined that the appropriate time period for ongoing CAF Phase II support should be 5

¹³ See USF/ICC Transformation Order at ¶ 160.

¹⁴ See *Further Notice* at ¶ 125.

years.¹⁵ While, as explained above, the term of the potential recurring support is less relevant to the rural broadband experiments, it is worthwhile exploring how altering the term of recurring support changes the economics of building broadband infrastructure and providing service in unserved rural areas. The Further Notice states that “We are persuaded that it is appropriate to provide support for up to ten years to those providers that commit to deploy high-speed, scalable, IP-based networks that will provide residential consumers, small businesses and anchor institutions with an evolving level of service.”¹⁶ The Further Notice goes on to say “[w]e recognize that some entities may be unwilling to make the necessary long-term investments to build robust future-proof networks in areas that are uneconomic to serve absent continued support beyond a five-year term.”¹⁷ While USTelecom agrees with the Commission that “There is no inherent reason that the terms of the competitive offer need to be identical to the offer of model-based support the Commission should consider offering an identical term of 10 years to cost model-based support recipients, particularly if such an option would allow the build out of the type of facilities that would better fulfill the Commission’s goal of encouraging entities to make the necessary long-term investment to build robust future-proof networks in areas that are uneconomic to serve.

D. The Commission Should Adopt a Two-Stage Process Based on Cost-Effectiveness to Evaluate Submitted Applications

USTelecom proposes a two-stage process evaluating submitted applications that otherwise meet the Commission’s criteria (i.e., CAF Phase II performance requirements, no competitive overlap). In Stage 1, bidders would specify the census tracts and locations therein

¹⁵ *Id* at ¶ 163.

¹⁶ *Id.*

¹⁷ *Id.*

which they propose to serve. The Commission would resolve competing applications within census tracts. All of the CAF Phase II eligible census blocks within the census tract must be served when bidding. Competing applications (or portions of applications) are only those that identify and seek to serve the same geographic areas within a census tract. If there is overlap between or among bidders for a census tract, the winner would be that carrier whose indexed cost is lowest for the collection of supported census blocks. If a census tract currently includes several service areas associated with multiple providers, multiple applications could be submitted within a census tract that do not overlap and thus are not in competition with each other. This would permit greater efficiencies and the potential for more locations to be served. All winning and uncontested applications from all census tracts nationwide would move forward to Stage 2.

Stage 2 would determine which applications would achieve the most cost-effective broadband solution in light of the CAF budget. This would be accomplished through indexing and national ranking of the eligible applications. Each application received from Stage 1 would be indexed against the Cost Allocation Model (CAM) cost for the same census tracts covered by the application. This would be done by dividing the proposed bid against the corresponding model funding for the same collection of CAF Phase II and RAF census blocks. If bidders applied to serve fewer than 100 percent of the model-recognized locations within their specified census blocks, a penalty of twice the percentage of eligible locations not served¹⁸ would be applied to their index. A value over 1 would result if the bid cost, as adjusted by the locations-

¹⁸ The index penalty factor would be determined by dividing the total model-derived locations in those census blocks by the locations within the census blocks identified in the proposal. For example, if the index would have been 0.8 and the model had 20% more locations than the proposal, then the penalty adjusted index would become $0.8 \times 1.4 = 1.12$ where $1.4 = (1 + 0.2 \times 2)$.

served factor, exceeded the CAM cost. The proposal would be rejected on that basis.¹⁹ A value under 1 would result if the bid cost, as adjusted by the locations-served factor, was favorable to the CAM cost.

All applications would be ranked nationwide, from lowest to highest index. Support would be awarded starting with the most cost-effective application (as determined by the lowest index) upwards until the funding budget is reached. The Commission should limit award of experimental funding to census tracts where the index does not exceed a value of 1.0 – that is, adjusted for the location penalty, the project funding does not exceed the amount of model-calculated support for a given geographic area.

IV. Obligations of Price Cap Carriers in Areas in Which Rural Broadband Experimental Support is Provided

To the extent support is awarded in the experiment prior to the offer of model-based support to price cap carriers, the Bureau should remove those areas from the state-level commitment and adjust the offer of support to account for the affected census blocks. USTelecom endorses the suggestion in the Further Notice that this could be accomplished by adjusting the extremely high cost threshold to make additional census blocks eligible, given the Phase II budget, without disturbing the list of otherwise eligible census blocks.²⁰

The incumbent price cap carrier should be relieved of its Eligible Telecommunications Carrier (ETC) high-cost obligations for the area when support is awarded to another entity. If one provider (the recipient of rural broadband experiment support) receives such support in a

¹⁹ See *Further Notice* at ¶ 112 (“we expect that the amount of funding to be made available for any applicant will not exceed the amount of model-calculated support associated with the relevant geographic area, either a census tract or aggregation of census tracts.”)

²⁰ See *Further Notice* at N. 348.

specific geographic area, Commission policy dictates that no other provider will be eligible to receive CAF Phase II support in such an area.²¹ Relief from ETC high-cost obligations in areas where support is awarded to another provider via rural broadband experiment funding should be extended to all areas in which high-cost support is no longer provided to the incumbent carrier. This is consistent with the principle that CAF Phase II support should match ETC obligations.²²

V. Rural Broadband Experiments in Areas Where the Incumbent is a Rate-of-Return Carrier

USTelecom does not object to the inclusion of areas served by rate-of-return incumbents in areas eligible for rural broadband experiment funding. But such inclusion should not create additional delay and regulatory uncertainty for those incumbents, which would contradict the Commission's overall goals by further discouraging broadband investment. Even if the Commission could meet its stated goal of implementing rural broadband experiments in areas served by rate-of-return carriers before the end of 2014,²³ incumbent rate-of-return carriers should not have to wait for the completion and evaluation of such projects before support for broadband-only lines is implemented. The rate-of-return industry has provided a simple and credible method for the Commission to provide such support.²⁴ That method could be structured

²¹ See generally USF/ICC Transformation Order at ¶¶ 164-166.

²² See Letter and Attachment from Jonathan Banks, Senior Vice President, Law and Policy, USTelecom, Connect America Fund, WC Docket No. 10-90, High-Cost Universal Service Support, WC Docket No. 05-337, (filed March 14, 2014).

²³ See *Further Notice* at ¶ 130.

²⁴ See Letter from Michael R. Romano, Senior Vice President – Policy, NTCA, submitted on behalf of NTCA, the United State Telecom Association, WTA and the National Exchange Carrier Association to Marlene H. Dortch, Secretary, Federal Communications Commission, Connect America Fund, WC Docket No. 10-90; High-Cost Universal Service Support, WC Docket No. 05-337; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-353; Technology Transitions Policy Task Force, GN Docket No. 13-5 (filed Dec. 16, 2013).

to fit into the current high-cost budget allocated to areas served by rate-of-return carriers. There is no need for the Commission to make rate-of-return carriers and their customers potentially wait for years while the Commission uses the results of the rural broadband experiments to develop “a potential pathway to longer term reforms regarding support for broadband-capable infrastructure in such areas.”

USTelecom supports the Commission’s proposal that experimental funding would only be made for locations in high-cost census blocks lacking broadband, subject to a challenge process.²⁵ This is consistent with the basic principle included in the USF/ICC Transformation Order that support should not be provided to multiple carriers for the same area.

USTelecom also supports the suggestion by NTCA²⁶ that the Commission provide incumbent rate-of-return carriers an initial window to submit applications for areas within their own service areas for the experiment, in advance of soliciting applications from other parties, and also should allow rate-of-return carriers to undertake the same deployment proposed by a non-incumbent for the same or a lesser amount of support. NTCA correctly argues that the statute provides that the FCC or a state commission, as applicable, must first find that any designation of an additional ETC in an areas served by a rural telephone company is in the public interest.²⁷ Further, the designation of an ETC for less than the entirety of an incumbent rate-of-

²⁵ See *Further Notice* at ¶ 207.

²⁶ See *Further Notice* at ¶ 207 and Letter from Michael R. Romano, Senior Vice President – Policy, NTCA, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 et al., at 2 (filed Jan. 24, 2014) Letter from Michael R. Romano, Senior Vice President – Policy, NTCA, to Marlene H. Dortch, secretary, Federal Communications Commission, WC Docket No. 10-90 et al., at 3 (filed Jan. 17, 2014).

²⁷ See Letter from Michael R. Romano, Senior Vice President Policy, NTCA to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 et al, at 2 (filed Jan. 22, 2014) and sections 214 (e)(2) and (e)(6) of the Communications Act, as amended, 47 U.S.C. § 214(e)(2) and (e)(6).

return carrier study area is subject to additional close security to avoid new ETCs picking and choosing where they might serve to the detriment of the incumbent rate-of-return carrier.²⁸ Given the cautious approach to designated additional ETCs in incumbent rate-of-return carrier service areas exhibited by the statute and the Commission, it is sensible to permit such carriers an initial window to submit applications for the experiment, in advance of soliciting applications from other parties, and also allowing the rate-of-return carrier to undertake the same deployment proposed by a non-incumbent for the same or a lesser amount of support.

The proposal in the Further Notice to encourage entities interested in proposing experiments in rate-of-return areas to focus their proposals on high-cost areas similar to those identified in the cost model as potentially eligible for the Phase II offer of model-based support to price cap carriers²⁹ is sensible as long as the Commission recognizes that in the case of rate-of-return areas, the model would just be indicating *relative* levels of cost, not accurately reflecting the real costs of rate-of-return carriers to provide broadband to those areas. It is also sensible, as proposed in the Further Notice, to allow applications in areas where the incumbent is a rate-of-return 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.³⁰

VI. Conclusion

USTelecom shares the Commission's goal of ensuring cost-effective and universal broadband connectivity in rural America. However, the rural broadband experiments, which the Commission hopes will provide it with useful information to guide future policy determinations, should not distract the Commission from completing needed and overdue universal service

²⁸ *Id.*

²⁹ *See Further Notice* at ¶ 208.

³⁰ *See Further Notice* at ¶ 209.

reforms already adopted. The Commission should promptly complete the CAM, a challenge process to finalize the list of support-eligible census blocks and resolution of the ETC framework for Connect America Recipients. The Commission should also focus on encouraging continued, reasonable investment by rate-of-return carriers by eliminating the existing Quantile Regression Analysis and implementing a transition to a mechanism that would fund broadband-only lines and create regulatory certainty.

The budget for rural broadband experiments should be the approximately \$50 million to \$100 million level originally contemplated. This recommended level of funding is more than enough to fund a wide variety of broadband experiments that are carefully selected for their ability to advance the Commission's knowledge regarding the scalability of deployment methods.

Rural broadband experiment proposals should be evaluated solely on cost-effectiveness. The Commission would be well served by using the rural broadband experiments to inform the development of a viable, scalable competitive bidding process for distributing any CAF Phase II support not accepted by price cap carriers. Experimenting with a complex bidding process that weights multiple criteria different than those adopted for CAF Phase II does not advance the process of developing a competitive bidding process that will result in widespread broadband deployment within the high-cost program budget the Commission has set.

The Commission should not provide broadband experiment funding to serve locations in which broadband is already provided, even if the overlap is "de minimis." The very limited amount of funding available for broadband build-out should not be spent on duplicating facilities; providing support for overbuilding is entirely inconsistent with the universal service framework set forth in the USF/ICC Transformation Order.

As long as recurring support is limited to a specified term of years for the rural broadband experiments, the Commission need not decide whether to adopt several recurring payments or a one-time payment (as plant is built out). A competitive bidding structure allows applicants to determine the net present value of a multi-year (recurring) payout and to request that funding up front.

It is worthwhile exploring how altering the term of recurring support changes the economics of building broadband infrastructure and providing service in unserved rural areas. The Commission should consider offering an identical term of 10 years to cost model-based support recipients, particularly if such an option would allow the build out of the type of facilities that would better fulfill the Commission's goal of encouraging entities to make the necessary long-term investment to build robust future-proof networks in areas that are uneconomic to serve.

USTelecom proposes a two-stage process evaluating submitted applications that otherwise meet the Commission's criteria (i.e., CAF Phase II performance requirements, no competitive overlap). In Stage 1, bidders would specify the census tracts and locations therein which they propose to serve. All winning and uncontested applications from all census tracts nationwide would move forward to Stage 2. Stage 2 would determine which applications would achieve the most cost-effective broadband solution in light of the CAF budget. This would be accomplished through indexing and national ranking of the eligible applications.

To the extent support is awarded in the experiment prior to the offer of model-based support to price cap carriers, the Bureau should remove those areas from the state-level commitment and adjust the offer of support to account for the affected census blocks. This could be accomplished by adjusting the extremely high cost threshold to make additional census blocks

eligible, given the Phase II budget, without disturbing the list of otherwise eligible census blocks. The incumbent price cap carrier should be relieved of its Eligible Telecommunications Carrier (ETC) high-cost obligations for the area when support is awarded to another entity.

Inclusion of areas served by rate-of-return incumbents in areas eligible for rural broadband experiment funding should not create additional delay and regulatory uncertainty for those incumbents. Rate-of-return carriers should not have to wait for the completion and evaluation of experiment projects before support for broadband-only lines is implemented. There is no need for the Commission to make rate-of-return carriers and their customers potentially wait for years while the Commission uses the results of the rural broadband experiments to develop “a potential pathway to longer term reforms regarding support for broadband-capable infrastructure in such areas.”

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