

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90

COMMENTS OF CENTURYLINK

CenturyLink submits these comments in response to the *Further Notice of Proposed Rulemaking* in the above-captioned proceeding regarding the Federal Communications Commission’s (Commission) proposed rural broadband experiments.¹

I. INTRODUCTION AND SUMMARY

There have been literally hundreds of expressions of interest in the FCC’s proposed rural broadband experiments. A review of those expressions, however, shows that many of them may go beyond what the Commission has stated that it intends for these experiments. Given the overwhelming number of expressions of interest, it is important that the Commission stay focused on selecting experiments based on applying universal service principles and the objectives it sets for the experiments.

The Commission must stay focused on selecting experiments that align with the overarching universal service principle of universal availability and thus select experiments that will continue to promote the deployment of broadband to as many locations as possible. The

¹ *Technology Transitions; AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition; Connect America Fund; Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Numbering Policies for Modern Communications*; GN Docket Nos. 13-5 and 12-353, WC Docket No. 10-90, CG Docket Nos. 10-51 and 03-123, WC Docket No. 13-97, Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative, FCC 14-5 (rel. Jan. 31, 2014) (*Technology Transitions Order*); 79 Fed. Reg. 11366 (Feb. 28, 2014).

Commission should choose a smaller budget of not more than \$100 million which should allow a reasonable selection of several focused experiments. Objective selection criteria should include the amount of support per location served and applicant demonstrations of financial ability and experience in deploying and providing broadband services. The Commission may also need to include some subjective criteria applied to a universe of projects that meet the objective criteria in order to achieve a diversity of experiments. The Commission's proposals regarding the amount of funding per experiment seem a reasonable initial approach and the Commission should experiment with funding partially-served census blocks. Recipients of experimental funding must be eligible telecommunications carriers (ETCs), but ETC obligations should be limited to the scope and duration of the experiment funded. Lastly, funded experiment areas should be removed from CAF Phase II eligibility.

II. THE COMMISSION SHOULD SELECT EXPERIMENTS THAT ALIGN WITH UNIVERSAL SERVICE PRINCIPLES AND THE COMMISSION'S OBJECTIVES

The Commission has expressed the following objectives in conducting the proposed experiments:

- To test, on a limited scale, the use of an application-based competitive bidding process with objective selection criteria before finalizing decisions regarding the competitive bidding mechanism to award support in price cap territories where the incumbent declines the offer of model-based support (§ 102)
- To determine how to use targeted funding most efficiently to expand the availability of voice and broadband-capable infrastructure within the defined \$4.5 billion budget for the CAF (§ 112)
- To test the use of the CAF cost model for setting reserve prices for future use in the Phase II competitive bidding process (§ 112)

- To deploy robust, scalable networks in rural areas without Internet access at speeds of at least 3 Mbps downstream and 768 kbps upstream (§ 113)
- To avoid using CAF support in areas where other providers are offering voice and broadband meeting the Commission's requirements (§ 113)
- To learn whether providers are more willing to deploy future-proof infrastructure when assured of a funding stream over a ten-year period as opposed to a five-year period (§ 126)

Given that the overarching objective of these experiments is to gain knowledge on using universal service funding to support broadband deployment in unserved areas, the Commission must be guided by universal service principles in selecting the experiments. And, the primary goal of universal service – universal availability – must be at the forefront. In this respect, the Commission should select experiments that will continue to promote the deployment of broadband to as many unserved locations as possible.

Also, consistent with the Commission's objective to focus deployment on areas not already served with at least 3/768 broadband, the Commission should avoid funding experiments that will overbuild existing broadband networks. In this regard, applicants should be required to certify when submitting their formal proposals, that they have exercised due diligence and reasonably believe that the locations they propose to serve are currently unserved with broadband at speeds of at least 3 Mbps down and 768 kbps up.

At the same time, the Commission should use the experimental aspect of this proposed endeavor to select a sampling of experiments that align with universal service principles and the Commission's objectives while also providing an opportunity to evaluate regional differences in

broadband deployment. The Commission should consider grouping formal proposals by regional areas of the country and selecting not more than one or two experiments in a region.

III. A SMALLER BUDGET IS PRUDENT FOR SELECTING AND MONITORING A REASONABLE NUMBER OF FOCUSED EXPERIMENTS

The Commission should not use CAF Phase II support intended for price cap carriers to fund the proposed rural broadband experiments. If the Commission does not commence CAF Phase II this year, the CAF II budget for price cap carrier areas should remain intact.

Additionally, a smaller budget may be prudent given the experimental nature of this proposed endeavor. A smaller budget should enable a reasonable selection of focused experiments while allowing for easier and more thorough monitoring of the experiments. This should help to minimize any misuse or abuse of the universal service funding. A budget of not more than \$100 million across price cap carrier and rate-of-return areas should be sufficient for these purposes.

IV. THE COMMISSION SHOULD HAVE BOTH OBJECTIVE AND SUBJECTIVE SELECTION CRITERIA

As mentioned earlier, it is critical that the Commission's criteria for selecting rural broadband experiments be aligned with universal service principles and the Commission's objectives for the experiments. This should generally result in the Commission's objective selection criteria. For example, to align with the universal service principle of universal availability, the Commission should include an objective criteria of support-per-location to be served. At the same time, to obtain sufficient data for developing a nationwide competitive bidding mechanism for funding broadband deployment in unserved areas, the Commission may need to have some subjective criteria as well, such as regional area to be served.

To best effectuate universal access to broadband, the Commission should remain focused on selecting experiments that will provide broadband to as many unserved locations as possible

within the available budget. At some level this will translate to selecting proposals that seek lower average support per location served. But, the notion of “cost-effectiveness” should not be applied to result in some of the available budget for the experiments not being used at all because not enough projects were sufficiently “cost-effective” to warrant funding. Instead, the Commission should use the available budget to award experiments from more cost-effective proposals to less cost-effective proposals until all of the budget is expended.

The Commission should do more than just “assume that applicants that submit formal proposals [will] seek to demonstrate their financial and technical capabilities” (§ 119). Instead the Commission should require that applicants do so. The Commission should include an appropriate demonstration of financial ability as an objective criteria. It should also require a statement of relevant experience in deploying broadband and quality of service provided.

But, this requirement should be lessened or waived for publicly-traded ILECs that file financial reports with the Securities and Exchange Commission. Incumbent telecommunications providers have already demonstrated that they can commit sufficient financial resources to comply with the proposed experiment obligations to provide voice and broadband service and have ample, existing financial and regulatory oversight. Well-established carriers, like CenturyLink, have the necessary financial, managerial and technical expertise to meet the proposed experiment obligations as demonstrated by proven track records of investment in their networks and compliance with FCC rules and commitments.

CenturyLink agrees with the Commission that in the event of a group or multiple party application, the ETC in the group must be legally and financially responsible for providing voice service under the experiment. (*See* § 122.) The Commission should require formal proposals to include a certification to this effect.

In terms of weighting criteria, if all other objective criteria are equal, including average support per location to be served and number of locations to be served, then a higher speed deployment should objectively win. But, if other things are not equal then higher speed should not receive any additional weight.

With respect to additional funding, generally, it should be irrelevant where any additional funding comes from or even if there is additional funding. Whether an applicant will receive additional state funding, will receive other external investment for the experiment, or will be simply providing its own capital investment should not weigh in favor of a proposal. Instead, objectively, the relevant consideration is how much federal universal service funding is being requested. At the same time, if an applicant is getting significant additional external investment, it may be particularly important that the applicant sufficiently demonstrate its financial ability and relevant experience in deploying broadband.

Certain objective criteria are important, and a scoring system based on these criteria should be helpful in identifying experiments that can qualify for selection versus those that do not. But, at some point, the Commission may have a universe of proposals that are within a range of eligibility. At this point in the process, some degree of subjectivity may be warranted in order to pick a sampling of varied experiments that will provide information to the Commission that is important for designing a successful competitive process for CAF Phase II. For example, the size of a carrier or the type of carrier should not be relevant at the objective selection criteria phase. But, if the Commission has a pool of experiments that meet the objective criteria, then it may be appropriate to consider the size or type of carrier in order to select diverse proposals.

V. THE COMMISSION’S AMOUNT-OF-FUNDING-PER-EXPERIMENT PROPOSALS ARE A REASONABLE INITIAL APPROACH

The Commission’s proposals for amount of funding per experiment seem a reasonable place to start. Starting with the premise that the amount of funding to be made available for an experiment will not be more than the amount of model-calculated support for the experiment allows the Commission to test using model-based support to set reserve prices for a CAF Phase II competitive bidding process. Additionally, the Commission should focus on funding experiments that primarily address deployment to high-cost areas, not extremely high-cost areas. Extremely high-cost areas are what the Remote Areas Fund is for. The Commission has asked whether to limit the amount of support in census tracts where the average cost per location is higher than the preliminary extremely high cost threshold to the amount per location equal to that preliminary extremely high cost threshold. Limiting experiment funding in this manner should retain the focus of this funding on high-cost areas while providing the experiments the flexibility to deploy to some locations in extremely high-cost areas.

Also, with respect to one-time funding versus recurring funding, CenturyLink seeks some clarity. Is it the Commission’s intent to provide a specified amount of funding for a longer period of time such that it would be more funding than the applicant would receive in a one-time payout, or would it be the same total amount?

VI. THE COMMISSION SHOULD ALLOW FOR FUNDING OF PARTIALLY-SERVED CENSUS BLOCKS

The Commission should experiment with funding partially-served census blocks. It is important that the Commission evaluate how to best address the reality that service areas and unserved locations do not align neatly within census blocks or census tracts. The goal of universal availability of broadband cannot be accomplished if unserved locations in census

blocks that already have some broadband deployed are not served. The first step should be that the Commission clearly define what it is considering as a “partially-served” census block. Is a partially-served census block any census block in which there are some locations that are not served by any provider with at least 3 kbps down 768 kbps up broadband service? Or, is the scope of what is meant by “partially-served” census block more limited?

Applicants should be permitted to identify unserved locations in census blocks that already have some broadband deployed within the census tracts they identify for their proposed experiments. In permitting consideration of such locations, however, it may be necessary for the Commission to adjust the model-based support calculated for the proposed census tracts, since model-based support may not take these locations in partially-served census blocks into account. At the same time, as the Commission has noted, in permitting unserved locations in partially-served census blocks to be included in experiment proposals, there will need to be an opportunity for those already serving the census block to challenge the identified locations if they are already serving those locations.

VII. RECIPIENTS OF EXPERIMENT FUNDING MUST BE ETCs FOR THE SCOPE AND DURATION OF THE EXPERIMENT FUNDED

It is consistent with universal service requirements that recipients of universal service support must be ETCs. Applicants should be ETCs but that designation should be limited to the time period of the experiment and the area supported by the experiment. Before proposals are required to be submitted, the service obligations resulting from an experiment selected for funding need to be clear and fixed. Applicants for experiment funding should have a clear understanding of what they will be expected to do if they accept the funding awarded.

VIII. EXPERIMENT-FUNDED AREAS SHOULD BE REMOVED FROM CAF PHASE II

If the Commission awards experiment funding before the offer of model-based support to price cap carriers, it makes sense to remove the experiment areas from the state-level commitment areas. At the same time the Commission should consider bringing in new areas to replace the areas that would come out. Areas served by experiments should also be excluded from the Phase II competitive bidding process.

Respectfully submitted,

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