

BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20504

In the Matter of)	
)	
Technology Transitions)	GN Docket No. 13-5
)	
AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition)	GN Docket No. 12-353
)	
Connect America Fund)	WC Docket No 10-90
)	
Structure and Practices of the Video Relay Service Program)	CG Docket No. 10-51
)	
Telecommunications Relay Services And Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities)	CG Docket No. 03-123
)	
Numbering Policies for Modern Communications)	WC Docket No. 13-97

To: The Commission

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 certain of the Comments filed in response to the February 28, 2014 Report and Order and Further Notice of Proposed Rulemaking in the above-referenced dockets regarding the establishment of a program to fund experiments that will further the deployment of broadband services in rural areas (the “Rural Broadband Experiment Program”).¹

¹ *Technology Transitions*, Order, Report and Order and Further Notice of Proposed Rulemaking, GN Docket Nos. 13-5, *et al.*, FCC 14-5 (2014) (“*FNPRM*”).

WISPA agrees with those commenters that advocate maximizing funding for the Rural Broadband Experiment Program, adopting technology neutral eligibility and project selection rules, and using cost-effectiveness as the most important (but not only) selection criterion for fixed wireless applications. WISPA disagrees with commenters that support allocating to the Rural Broadband Experiment Program far less than the full \$230 million now housed in the Connect America reserve fund, adopting program rules that will promote unfair and unwarranted favoritism toward projects employing one particular technology, and using cost-effectiveness as the *sole* criterion for project evaluation and selection. WISPA also disagrees with commenters that advocate using Rural Broadband Experiment Program funding for projects that would provide additional service to areas already well-served with broadband.

Discussion

I. THE RURAL BROADBAND EXPERIMENT PROGRAM DESERVES ROBUST FUNDING.

A large number of commenters understand the tremendous opportunity that the Rural Broadband Experiment Program presents to “kickstart the process for a diverse set of [rural broadband] experiments,”² and therefore support maximizing the funding allocated to the program. The Commission has called the interest expressed in participating in the program “astounding,” as evidenced by the 1,000 or so filings to date.³ Given this remarkable interest in developing innovative solutions to extend broadband to all Americans, WISPA concurs with those commenters that “recommend[] that the FCC make available *all* unallocated funds.”⁴ WISPA and numerous other commenters disagree that the *FNPRM*’s suggestion of \$50-\$100

² *Id.* at ¶ 1.

³ See Jonathan Chambers, Chief, Office of Strategic Planning and Policy Analysis, “Notes from the Sandbox: The Rural Broadband Experiment,” Official FCC Blog (Mar. 11, 2014), available at <http://www.fcc.gov/blog/notes-sandbox-rural-broadband-experiment> (“FCC Blog”).

⁴ Comments of Atlantic Tele-Network, Inc. at 5 (filed Mar. 31, 2014) (“ATN Comments”) (emphasis added).

million is “more than enough to fund a wide variety of broadband experiments.”⁵ In fact, the Commission’s “suggested ‘budget’ . . . is so small in comparison to the evident demand, [that] a large number of applications will end up with nothing. . . .”⁶ Promoting “the maximum allocation of funds . . . will allow for more participation”⁷ in the program, and increase the likelihood that successful solutions will be identified. WISPA wholeheartedly disagrees that “[a]llocating more than \$100 million . . . would be an inappropriate use of USF support.”⁸ Given the high demand for broadband deployment and the strong interest from providers in meeting that demand, allocating the full amount of the CAF reserves to the Rural Broadband Experiment Program would go far in meeting the Commission’s stated goal – that “[a]ll Americans should have access to broadband that is capable of enabling the kinds of key applications that drive our efforts to achieve universal broadband, including education . . . health care . . . and person-to-person communications.”⁹ The Commission has taken the initiative in promoting the program, and it should follow through to the fullest possible extent to achieve its policy objectives.¹⁰

II. THE RURAL BROADBAND EXPERIMENT PROGRAM SHOULD EMPLOY TECHNOLOGY-NEUTRAL ELIGIBILITY AND SELECTION CRITERIA.

WISPA agrees with those commenters that support the Commission’s preliminary conclusion that cost-effectiveness should be the primary evaluation criterion for selecting applications to participate in the Rural Broadband Experiment Program.¹¹ Especially when evaluating applications from fixed wireless providers, the Commission should generally choose

⁵ Comments of the United States Telecom Association (filed Mar. 31, 2014) (“USTA Comments”) at 4.

⁶ Comments of the Rural Independent Competitive Alliance (filed Mar. 31, 2014) (“RICA Comments”) at 3.

⁷ Comments of Competitive Carriers Association (filed Mar. 31, 2014) at 3 (“CCA Comments”).

⁸ USTA Comments at 4.

⁹ *FNPRM* at ¶ 56 (internal citations and quotations omitted).

¹⁰ *See* Comments of the Utilities Telecom Council (filed Mar. 31, 2014) (“UTC Comments”) at 4 (encouraging the Commission “to find creative ways to increase the budget for rural broadband experiments”).

¹¹ *See, e.g.*, CCA Comments at 7; Comments of National Cable & Telecommunications Association (filed Mar. 31, 2014) (“NCTA Comments”) at 8.

applications that seek the least amount of funding per unserved rural location. But WISPA disagrees with commenters that argue that cost-effectiveness “should be the *only* criterion for selection.”¹² By its very nature, the Rural Broadband Experiment Program will encourage creative, “out of the box” approaches to the problem of rural broadband access. While cost-effectiveness should be the primary evaluation criterion, the Commission should be able to take into account other, unique factors when selecting applicants. For example, if an applicant has successful experience in constructing and operating the type of network that it proposes under the Rural Broadband Experiment Program, the Commission should take such success into account.¹³

Selection of eligible proposals should not be based on preconceived notions that one technology is in some manner superior to another, especially when the goal of the Rural Broadband Experiment Program is to develop a wide-range of creative broadband solutions. Given its nature and underlying purpose, the program should be open and available to all interested providers on an equal and technology-neutral basis. As one commenter succinctly stated, “the program’s gating criteria should invite robust proposals using a variety of technologies . . . [so as to] advance the spirit of experimentation and . . . enhance the likelihood of successful trials consistent with the stated goals of the [rural broadband experimentation] program.”¹⁴

¹² USTA Comments at 4 (emphasis in original).

¹³ ATN believes that applicants should be required to demonstrate such prior experience. See ATN Comments at 6-7. While WISPA does not concur that a failure to provide such documentation should be disqualifying *per se*, it does support taking into account an applicant’s prior construction and operation of a similar broadband network.

¹⁴ Comments of SPITwSPOTS, Inc. (filed Mar. 31, 2014) at 3. See also CCA Comments at 2 (“the Commission should include experiments from a variety of technologies...to fully inform the Commission’s decision-making”).

The *FNPRM* did not invite a rehashing of arguments about the alleged superiority of fiber-to-the-home over other methods of broadband delivery.¹⁵ If, as rural local exchange carriers (“RLECs”) propose, extending fiber from existing adjacent networks into unserved areas will provide “massively greater efficiency” than developing other methods of rural broadband delivery, then RLECs should endorse technology neutral rules, rather than promoting yet another CAF-based program that plays favorites to one category of provider by giving telephone companies “first priority.”¹⁶ It makes absolutely no sense to give “a controlling preference”¹⁷ to RLECs merely because they employ “fiber extensions,”¹⁸ and “there is no basis whatsoever for giving [RLECs] preferential treatment in the context of the rural broadband experiments.”¹⁹ If, in fact, “the most efficient and cost-effective approach is to encourage and enable RLECs to continue edging out their existing networks into these outlying and underserved rural census blocks,”²⁰ then RLECs should have no problem competing on a level playing field with all other applicants for Rural Broadband Experiment Program support.²¹

WISPA agrees with the numerous commenters that support the Commission’s proposal that applicants for Rural Broadband Experiment Program funding be allowed to seek Eligible Telecommunications Carrier (“ETC”) status after being conditionally accepted for program funding.²² WISPA believes that non-ETC providers should be allowed, within 30 days of being awarded support under the program, to seek to become an ETC for the particular service area in

¹⁵ WTA-Advocates for Rural Broadband used the *FNPRM* to deliver a short diatribe about the benefits of fiber connections delivered by RLECs. See Comments of WTA-Advocates (filed Mar. 31, 2014) (“WTA Comments”).

¹⁶ Comments of John Staurulakis, Inc. (filed Mar. 31, 2014) (“JSI Comments”) at 11.

¹⁷ WTA Comments at 5.

¹⁸ *Id.*

¹⁹ NCTA Comments at 7.

²⁰ *Id.*

²¹ See *id.* at 7 (noting that RLECs already have had “exclusive access to all legacy support in their service areas.”).

²² See NCTA Comments at 5; UTC Comments at 9.

which it is awarded support. Contrary to the views of a few commenters,²³ and consistent with NSTA's views,²⁴ if a State does not act on the ETC application within 60 days of filing, the application should be deemed granted. If a State decides not to undertake the process of designating program selectees as ETCs, then applicants in such States should seek ETC designation from the Commission pursuant to Section 214(e)(6) of the Communications Act.

III. FUNDING FROM THE PROGRAM SHOULD NOT BE USED TO FUND EXPERIMENTS IN AREAS THAT ARE ALREADY WELL-SERVED.

The *FNPRM* made clear that, with the Rural Broadband Experiment Program, the Commission was proposing that “that experimental funding . . . be made [available] for locations in high-cost census blocks *lacking broadband*.”²⁵ Yet a few commenters propose that funding from the program also be made available “for proposals to serve areas that are *currently served* with slower, more expensive services using older, legacy networks.”²⁶ WISPA agrees with NCTA that funding such proposals under the Rural Broadband Experiment Program would be entirely inappropriate.²⁷ While UTC's point, that some areas receive broadband service only via legacy carriers using outdated technology, is well-taken, program funds should not be used for “experiments” that would merely bring an alternative method of broadband delivery to areas that already have access to broadband service. In addition, the selection criteria should not, as JSI suggests, favor applicants that “propose to offer ultra-high-speed broadband services;”²⁸

²³ See Comments of the Massachusetts Department of Telecommunications and Cable (filed Mar. 31, 2014) at 3; RICA Comments at 10

²⁴ See NCTA Comments at 6.

²⁵ *FNPRM* at ¶ 208.

²⁶ UTC Comments at 8 (emphasis added). See also JSI Comments at 7.

²⁷ See NCTA Comments at 4.

²⁸ JSI Comments at 12.

applicants who desire funding for rural gigabit network deployment can participate in the USDA's Rural Gigabit Network Pilot Program as authorized by the 2014 Farm Bill.²⁹

Conclusion

WISPA respectfully requests that the rules and policies proposed in its Comments and Reply Comments be adopted to help provide support for rural broadband experiments on a technology neutral basis. WISPA's members look forward to participating in the program, and ask the Commission to act quickly to adopt rules, accept applications, announce funding recipients and allocate funding, for the betterment of Americans living and working in rural areas.

Respectfully submitted,

April 14, 2014

**WIRELESS INTERNET SERVICE
PROVIDERS ASSOCIATION**

By: */s/ Chuck Hogg, President*
/s/ Alex Phillips, FCC Committee 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

²⁹ Agricultural Act of 2014, Pub. L. 113-79 (2014), § 6105.