

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WC Docket No. 10-208
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92

To: The Commission

**REPLY COMMENTS OF
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION**

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Summary

The Wireless Internet Service Providers Association (“WISPA”) replies to certain of the Comments regarding rules for Connect America Fund (“CAF”) Phase II.

First and foremost, WISPA strenuously disagrees with the adoption of any requirements that would compel existing “unsubsidized competitors” to increase broadband speeds merely to preclude subsidies from flowing to price cap carriers. Existing providers have spent their own funds to construct and operate broadband networks in areas that the carrier previously elected to not serve, and should not now be subject to overbuilding by those same companies, who, with the benefit of federal subsidies, could drive them out of business or force them to spend additional private funds to upgrade their existing networks. Changing the minimum broadband speed for “unsubsidized competitors” would contravene Commission policies intended to encourage deployment of broadband networks.

The Commission also should not increase to 10 Mbps the required minimum download speed for Phase II recipients. The Commission should first focus on ensuring that all Americans have access to 4 Mbps/1 Mbps speeds before providing funding for 10 Mbps service in areas that already receive 4 Mbps/1 Mbps service. If, however, the Commission does change its performance requirements, it should not extend the funding term. WISPA does not object to a small degree of flexibility in service requirements, but not the larger degree favored by price cap carriers.

WISPA strongly disagrees with a proposal to require all CAF recipients to deploy fiber. By mandating fiber technology, the Commission would eliminate a sizable portion of the competitive pool, and would preclude use of other fixed technologies that can be deployed more

cost-effectively and quickly. The Commission should not pick technology winners and losers, but should encourage participation from a broad array of broadband providers and technologies.

WISPA agrees with many in the broadband industry that the Commission should streamline the process by which entities selected for CAF Phase II funding can become eligible telecommunications carriers (“ETC”). WISPA also agrees that ETC obligations should be limited to the geographic area corresponding to the funding and should sunset when the recipient fulfills its public interest obligations and the funding period ends.

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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 Further Notice of Proposed Rulemaking (“*FNPRM*”) in the above-captioned proceeding.¹ WISPA is most concerned about proposed changes to the Commission’s requirements that would, on the eve of the Connect America Fund (“CAF”) Phase II process, materially alter the standards for “unsubsidized competitors” and subject privately funded fixed broadband providers already satisfying the 4 Mbps downstream/1 Mbps upstream speed standard to competition from large, subsidized price cap carriers. If the Commission decides to increase the minimum speed threshold for CAF Phase II subsidy recipients, it must not move the goalposts and thereby reduce the number of locations already deemed to be “served” by

¹ *Connect America Fund, et al.*, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, WC Docket Nos. 10-90, *et al.*, FCC 14-54 (rel. June 10, 2014) (“*Omnibus Order*”). WISPA’s Reply Comments relate to the Further Notice of Proposed Rulemaking (“*FNPRM*”) section of the *Omnibus Order*.

“unsubsidized competitors,” many of whom could suffer financial and operational hardship from competing with well-heeled carriers in funding partnerships with the Commission. WISPA also strongly disagrees with the proposal of one commenter to require all CAF Phase II recipients selected through competitive bidding to deploy fiber, a result that would be less cost-effective, slow broadband deployment and sharply curtail participation in the competitive bidding process.

WISPA agrees with a broad consensus of commenters that the process by which a CAF Phase II recipient can become an eligible telecommunications carrier (“ETC”) should be streamlined, and that the ETC designation should be limited to the particular program and should sunset when the funding period ends.

Discussion

I. THE COMMISSION MUST NOT REQUIRE “UNSUBSIDIZED COMPETITORS” TO PROVIDE 10 MBPS DOWNSTREAM SPEEDS.

A. CAF Phase II Support Should Not Be Used To Overbuild Existing Broadband Networks That Meet The Commission’s Existing Standards.

In its Comments, WISPA explained that, if the Commission raised the minimum speed for Phase II eligibility from the existing 4 Mbps/1 Mbps standard, it must not require existing broadband providers to meet the faster requirement in order to remain “unsubsidized competitors.”² WISPA explained that existing competitors “should not be required to spend additional private funds to upgrade those networks merely to preclude large price cap carriers from receiving federal funds to build faster networks.”³

Not surprisingly, the large price cap carriers take a different view, seeking funding over a longer term so they can have more time to feed at the federal trough to obtain subsidies for faster networks that would potentially destroy unsubsidized smaller providers that have already

² Comments of WISPA, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“WISPA Comments”), at 6.

³ *Id.*

successfully built networks that serve areas that *the carriers themselves chose not to serve*. To summarize their position – price cap carriers have had federal support for years, they elected to not build out in many rural areas, WISPs are already serving those areas with 4 Mbps/1 Mbps speeds, and now the carriers want to raise the speed threshold so they can use federal subsidies to destroy the existing WISPs and cable companies. In effect, the carriers want to use federal funding to overbuild existing networks, built with private funds by smaller companies that for the last three years were deemed to be compliant with the Commission’s rules and that are providing valuable service in the public interest. The Commission should reject the carrier’s anticompetitive proposal.

How do the carriers justify such an illogical result? First, they claim that maintaining a 4 Mbps/1 Mbps standard “runs the risk of indefinitely dooming those high-cost areas with below-standard service.”⁴ Of course, until a few months ago when the Commission adopted the *FNPRM*, broadband networks offering 4 Mbps/1 Mbps speeds were not “below-standard,” but were operating at *the* standard. What USTelecom is really saying is that broadband networks offering 10 Mbps downstream speeds cannot be built unless the federal government subsidizes them and does not subsidize other entities. Given that WISPs have deployed in areas where price cap carriers offered no service at all, it remains to be seen whether all high-cost areas require faster speeds and federal funding to achieve it. The Commission should not simply accept Frontier’s blanket assertion that “it is unlikely that many areas excluded from CAF Phase

⁴ Comments of the United States Telecom Association, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“USTelecom Comments”), at 11. *See also* Comments of ITTA, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“ITTA Comments”), at 15-16; Comments of CenturyLink, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“CenturyLink Comments”), at 12.

II, areas that lack 10 Mbps service, will receive such service in the near term, if at all due to their inherent high-cost nature.”⁵

Second, carriers argue that changing the speed threshold will bring broadband service to an additional 500,000 locations based on a comparison of two Commission cost analyses.⁶ Properly viewed, this assertion means that there are 500,000 locations that currently receive broadband from an “unsubsidized competitor” that would now be subject to overbuilding by a funded carrier. The Commission is faced with the question of whether it wants federal funds spent to wipe out years of private investment that deployed broadband to areas that the carriers refused to serve. Opting for this anticompetitive result would send a strong and perverse message to private companies that the Commission would rather throw money at big companies so they can eliminate the small businesses that relied on entrepreneurship and innovation, not regulatory gifts, to deploy broadband.⁷

Third, WISPA must point out the self-serving shortsightedness in the price cap carriers’ arguments. ITTA states that “[i]f the Commission more than doubles the required downstream broadband speed without providing adequate flexibility for CAF recipients to meet their public interest obligations, the program’s overall goals would be compromised.”⁸ Windstream “views CAF Phase II as a three-legged stool, in which support amount, build-out rules and service obligations must be balanced precisely to support broadband deployment and maintenance in

⁵ Comments of Frontier Communications Corporation, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“Frontier Comments”), at 5. *See also* Comments of the Idaho Public Utilities Commission, WC Docket No. 10-90, *et al.* (filed Aug. 7, 2014) (“Idaho PUC Comments”), at 3 (stating without any discussion that areas where a facilities-based provider offers fixed broadband service of at least 10 Mbps should be excluded from funding).

⁶ *See* USTelecom Comments at 11; Frontier Comments at 4-5; ITTA Comments at 3.

⁷ In support of its distorted view, Frontier cites Chairman Wheeler’s question: should “all consumers, even in the most rural regions, [] have greater access to better broadband.” *Id.* at 5. WISPA suggests that the answer would be different if the relevant question were asked: should rural consumers have access to basic broadband before the Commission subsidizes large carriers to provide faster speeds, especially where a local company is already offering acceptable service?

⁸ ITTA Comments at 9 (footnote omitted).

high-cost areas.”⁹ These myopic views focus only on the difficulty large price cap carriers apparently would have in meeting new performance requirements with the *benefit* of federal support, and fail to consider the significant private investment that unsubsidized competitors have made and the costs they, too, would incur in upgrading their networks. The Commission should keep the overall goal in sight, which must be the promotion of broadband deployment through a variety of means, not just through federal handouts. In other words, CAF Phase II is not simply a carrier-focused three-legged stool, but the rules and policies must consider the economic effect on existing providers who would need to spend significant amounts of money to increase network speed just to maintain the competitive *status quo*. They would gain little increased benefit, other than the satisfaction of protecting their private investments from subsidized competition. This is not the best way to encourage broadband deployment to all Americans in a reasonable and timely manner, as Section 706 of the Telecommunications Act of 1996 requires.

WISPs do not shrink from competition, but rather welcome it. But WISPA objects to a moving target that, with the stroke of a pen, would make the Commission financial partners with price cap carriers so they can overbuild areas that already receive fixed broadband service.¹⁰ That would not be a good way to promote broadband deployment or competition, but would instead stand as an example of the Commission picking winners and losers – in this case, ensuring that subsidized wireline carriers win and existing privately funded providers lose.

⁹ Comments of Windstream, WC Docket No. 10-90, *et al.* (Aug. 8, 2014) (“Windstream Comments”), at 4.

¹⁰ ADTRAN objects to “a policy of constantly ‘moving the goalposts’” past 10 Mbps for CAF recipients. Comments of ADTRAN, Inc., WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“ADTRAN Comments”), at 4. This same circumstance is present with *existing* providers that have operated under the current standard, only to see the Commission now propose faster speeds that would allow a price cap carrier to obtain funding for an area heretofore deemed “served” by an “unsubsidized competitor.”

B. The Commission Should Not Provide Support To Areas Served By Unsubsidized Voice And Broadband Providers.

WISPA is pleased that NCTA has reiterated its call for the Commission to act on WISPA's long-standing petition for reconsideration of the definition of "unsubsidized competitor,"¹¹ which asks the Commission to acknowledge that both voice and broadband services do not need to be provided by the same entity in order for an area to be precluded from CAF Phase II funding.¹² In its Petition, WISPA stated that the Commission should not provide CAF support to carriers where an area is already served by multiple unsubsidized providers, where one provider offers voice and another provider offers broadband. To quote NCTA, "[t]here is no rational basis for providing support to the incumbent LEC in these areas."¹³ Nor is there any rational basis for the Commission to further delay action on the Petition while the CAF Phase II process moves forward.

II. THE COMMISSION SHOULD NOT INCREASE THE BROADBAND SPEED THRESHOLD FOR CAF PHASE II.

WISPA opposed the proposed increase in the minimum broadband speed standard for CAF Phase II recipients, explaining that federal support should first be used to ensure that all areas have access to 4 Mbps/1 Mbps speeds.¹⁴ Quoting Commissioner O'Rielly, WISPA pointed out that 4 Mbps/1 Mbps is sufficient for people to accomplish basic Internet tasks such as email, homework and even movies.¹⁵

At least four other commenters questioned the need to require faster speeds in all rural areas. Deere & Company generally suggested that lower speeds should be permitted where the

¹¹ See WISPA Petition for Partial Reconsideration, WC Docket No. 10-90, *et al.* (filed Dec. 29, 2011) ("Petition").

¹² See Comments of the National Cable & Telecommunications Association, WC Docket No. 10-90 (filed Aug. 8, 2014), at 9-10.

¹³ *Id.* at 10.

¹⁴ See WISPA Comments at 4-6.

¹⁵ *Id.* at 5, *quoting FNPRM*, Statement of Commissioner Michael O'Rielly, at 2.

carrier cannot cost-effectively extend its network meeting the new requirements to a requested location.¹⁶ It essentially agreed with what WISPA has been saying all along: “Some rural areas have *no* effective access to high speed broadband today and therefore delivering to rural areas broadband even at speeds that do not match services that are available in urban areas would produce enormous benefits that the Commission should not overlook by holding recipients to rigid speed benchmarks.”¹⁷ The Rural Independent Competitive Alliance (“RICA”) similarly stated that “[s]ome areas today have no high speed internet access at all, others have only DSL. *Bringing those areas up to the existing service standards is a more important public interest objective than getting to even higher speeds in others.*”¹⁸ The Alaska Rural Coalition and General Communication, Inc. highlighted a significant problem – the lack of middle-mile infrastructure – that would lead to the unintended consequence of applying Phase II funds to upgrading networks that currently meet a 4 Mbps/1 Mbps speed rather than deploying in areas that totally lack broadband because of a lack of backhaul facilities.¹⁹ This problem, however, is not confined to areas of Alaska where middle-mile connectivity must be accomplished via satellite, but other rural areas of the country where higher-speed backhaul facilities are either completely unavailable or cost-prohibitive for unsubsidized competitors to access. As Chairman Wheeler recently acknowledged, “[o]ne thing we already know is the fact that something works in New York City doesn’t mean it works in rural South Dakota.”²⁰

To the contrary, price cap carriers largely agreed that the speed requirement should be increased, but only if the Commission increases the funding period to 10 years and provides

¹⁶ See Comments of Deere & Company, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014), at 5.

¹⁷ *Id.* (citation omitted) (emphasis in original).

¹⁸ Comments of Rural Independent Competitive Alliance, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“RICA Comments”), at 8 (footnote omitted) (emphasis added).

¹⁹ See Comments of Alaska Rural Coalition, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014), at 3-4; Comments of General Communication, Inc., WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“GCI Comments”), at 15.

²⁰ Prepared Remarks of FCC Chairman Tom Wheeler, “The Facts and Future of Broadband Competition” (Sept. 4, 2014), at 6.

build-out flexibility.²¹ The carriers cite the “significant” increased costs of building 10 Mbps networks as the basis for also adopting a longer support term and the flexibility to eliminate some locations in census blocks subject to the statewide commitment or to substitute locations in funded census blocks with unserved locations in partially served census blocks.²²

The question here is not whether fixed broadband providers should build increasingly faster networks where there is sufficient consumer demand, but whether the Commission should provide financial support to enable CAF Phase II recipients to overbuild unsubsidized networks offering 4 Mbps/1 Mbps speeds. WISPA continues to believe that the Commission should not change the speed requirement at this time. If the Commission decides that an increase to 10 Mbps is necessary, then, to quote the American Cable Association (“ACA”), “there is no cogent public interest rationale for the Commission to alter its rules for awarding Phase II model-based support to price cap LECs making a statewide commitment by increasing the duration of the program beyond five years or by making any other modification that would effectively increase the amount of funding provided during the five-year period.”²³ RICA agreed, stating that extending the “monopoly on eligibility for support . . . would reduce even further the possibility of competitive provision of service in high cost rural areas.”²⁴ Further, as discussed above, requiring CAF Phase II recipients to deploy networks capable of 10 Mbps downstream speed must not be used to establish a new standard that would reclassify areas served by “unsubsidized competitors” from “served” to “unserved” and therefore eligible for price cap carrier subsidies.

²¹ See, e.g., USTelecom Comments at 3, 13-14; Windstream Comments at 3-6; CenturyLink Comments at 17-22. Some commenters supported a faster speed threshold but did not address whether the funding term should be extended. See Comments of Commissioner Scott T. Rupp, WC Docket No. 10-90, *et al.* (filed Aug. 6, 2014), at 2; Comments of TCA, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014), at 7; Comments of the American Farm Bureau Federation, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014), at 1.

²² See, e.g., USTelecom Comments at 4.

²³ Comments of the American Cable Association, WC Docket No. 10-90 (filed Aug. 8, 2014) (“ACA Comments”), at 4.

²⁴ RICA Comments at 3; Comments of the Utilities Telecom Council, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014), at 13.

WISPA agrees with ACA's extensive analysis showing that price cap carriers relying on model-based support do not require a longer funding term or additional funds to support deployment of 10 Mbps networks.²⁵ ACA pointed out that the Connect America Cost Model ("CAM") assumes that the cost of the greenfield FTTH network and broadband service are the same, and that only the locations eligible for service would change. In this regard, ACA showed that an additional 500,000 new locations would be eligible, and that 250,000 locations would be eliminated from support because they would be just below the high-cost threshold. Second, ACA also demonstrated that an increase in speed would also increase the price of broadband service by \$6 and, consequently, the revenues that the carrier would receive. ACA concluded that the Wireline Competition Bureau should "re-run the CAM and raise the target benchmark to reflect these increased prices if it increases the speed benchmark to 10 Mbps since it would lead to a more efficient distribution of support during the five-year term."²⁶

As ACA reminds us, the CAM is based on a greenfield, FTTH cost model. Of course, to the extent carriers are concerned about whatever difference there may be from building a fiber network at 4 Mbps/1 Mbps speed to building a network capable of 10 Mbps download speed, there is no prohibition against price cap carriers building broadband networks that exceed whatever the minimum speed may be. They can even use more cost-effective technologies such as fixed wireless to deliver services, as AT&T has perhaps decided to do.²⁷

If the Commission increases the broadband speed requirement for CAF Phase II recipients, flexibility to meet service requirements should be limited to a minor deployment reduction to 95 percent of locations with a corresponding reduction in support, or to the

²⁵ See ACA Comments at 5-9.

²⁶ *Id.* at 9.

²⁷ See Applications of AT&T Inc. and DIRECTV for consent to Assign or Transfer Control of Licenses and Authorizations, MB Docket No. 14-90 (filed June 11, 2014), at Exhibit A, pp. 42-44.

substitution of unserved locations in partially served census blocks for those in eligible census blocks so long as 95 percent of the locations are in eligible locations.²⁸ Though carriers of course agreed that there should be flexibility in meeting deployment requirements, they largely suggested a 90 percent standard.²⁹ ACA, NCTA and RICA opposed any flexibility because of legitimate concerns over possible “cherry-picking” or “cream-skimming” of locations and the effect on the cost profile.³⁰ Other parties agreed that any flexibility should be limited to the numbers suggested by WISPA³¹ and that any such flexibility should apply equally to CAF Phase II winning bidders. The Commission should adopt the middle ground and limit any deployment flexibility to the 95 percent floor suggested in the *FNPRM*.

III. THE COMMISSION SHOULD NOT REQUIRE PHASE II RECIPIENTS TO DEPLOY FIBER.

WISPA strongly opposes the proposal of the Fiber to the Home Council Americas to require winning bidders for CAF Phase II support to deploy fiber networks.³² Adopting this mandate would be contrary to the public interest in a number of ways. First, it would preclude use of more cost-effective technologies such as fixed wireless, which can be deployed across a wide area at significantly lower cost than fiber and other wired technologies. As a result, competitive bidders intending to rely on fixed wireless spectrum can be expected to bid at lower amounts than bidders proposing fiber, thereby preserving the CAF’s finite financial resources. Second, fixed wireless technology can be deployed much more quickly – serving all locations from a tower or water tank in a five-mile radius (or whatever the radius is) can be accomplished

²⁸ See WISPA Comments at 8. WISPA incorrectly stated that flexibility would be limited such that 95 percent of the census blocks must be in funded areas; this should have read 95 percent of *locations* in eligible census blocks. WISPA regrets its error.

²⁹ See, e.g., USTelecom Comments at 13; AT&T Comments at 45; ITTA Comments at 2; CenturyLink Comments at 14-15, 17-20.

³⁰ See ACA Comments at 10-14; NCTA Comments at 7; RICA Comments at 3.

³¹ See NRECA Comments at 9-10; UTC Comments at 20; Idaho PUC Comments at 3.

³² See Comments of Fiber to the Home Council Americas, WC Docket No. 10-90 (filed Aug. 8, 2014), at 4-5.

in a matter of days and in many cases without permits, easements, environmental review or access to poles. Third, eliminating other technologies from Phase II competitive bidding will eliminate WISPs, cable companies, utilities and others that may want to bid. This is contrary to the Commission's objective of encouraging participation. Just as the Commission should not be picking winners and losers when it comes to broadband providers, so, too, should the Commission refrain from determining which one technology should be the nationwide standard at the exclusion of other technologies that can be deployed more cost-effectively and more quickly.

WISPA also takes issue with the Rural Associations' statement that "[i]f universal service and capital expenditure budgets were not an issue, the most cost-effective way of deploying broadband would be to install fiber-to-the-home (FTTH) or fiber-to-the-curb (FTTC) as far out into rural networks as practicable."³³ The fallacy in this statement is, of course, that capital expenditure budgets *are* a central issue in setting CAF policy, so it cannot be so casually set aside. And if fiber interests want to have a discussion about which technology is most cost-effective to deploy in rural areas, they should first consult with WISPs that are already deployed with private funds in areas where fiber does not extend.

IV. THE RECORD SHOWS THAT STREAMLINING THE ETC APPROVAL PROCESS AND SUNSETTING ETC OBLIGATIONS WILL BENEFIT THE PUBLIC INTEREST.

On one issue nearly every commenter agreed – the Commission should streamline the process by which CAF Phase II recipients can become ETCs, should limit ETC requirements to the funded program and funded area and should eliminate ETC obligations when the funding period ends.

³³ Comments of Rural Associations, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014, at 28).

The Rural Associations argued against streamlined processing because of the “serious state interest and significant public interest policy implications associated with an ETC designation” and the statutory requirement for states to conclude that designation of an additional ETC in an area served by a rural telephone company is in the public interest.³⁴ These concerns are overstated given the public interest objectives of Section 706 and the goals of CAF Phase II, and rural carriers need not be concerned about competition if the areas are subject to Phase II funding because they have chosen not to serve the area. States and the rural local exchange carriers should not be able to manipulate the ETC process to disrupt the Commission’s federal mandate.

The California Public Utilities Commission (“California PUC”), suggested that states may not have jurisdiction at all because certain providers selected for funding (in CAF Phase II competitive bidding) would not at that time be “telecommunications carriers” eligible for ETC designation under Section 214 of the Act.³⁵ Moreover, the California PUC also stated that in the State of California, an ETC must be a “telephone corporation” under state law.³⁶ Given these two limitations, the California PUC suggested that the Commission should be the sole agency responsible for designating winning bidders as ETCs.³⁷

WISPA believes that, if the California PUC’s analysis is correct, states may not have jurisdiction to process ETC applications from *prospective* common carriers such as WISPs, cable companies, satellite companies, utilities and municipalities that may be selected for Phase II support via competitive bidding (or, presumably, pursuant to the rural broadband experiment program or the Remote Areas Fund). Rather than exclude these existing broadband providers

³⁴ *Id.* at 62.

³⁵ See Comments of the California Public Utilities Commission and the People of the State of California, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“California PUC Comments”), at 4-5.

³⁶ See *id.* at 5.

³⁷ See *id.*

from participating in CAF programs – a result that would be clearly contrary to Section 706 and the public interest in deploying broadband in a cost-effective manner – the Commission should assert jurisdiction and process ETC applications.³⁸ Limitations such as those apparently contained in California law offer an independent basis for the Commission to designate new ETCs.

If, however, the Commission decides that state commissions can and should designate ETCs, WISPA³⁹ and others supported the process adopted in the rural broadband experiment program⁴⁰ that would allow recipients to seek ETC designation after being selected for CAF Phase II funding.⁴¹ The intended recipient would have 30 days after selection to seek ETC status. At that point, commenters presented slightly different views on whether the state would lose jurisdiction if it did not initiate a proceeding within a specified time period⁴² or, as WISPA advocated, would have 60 days to complete processing of the ETC application after which time the application would be deemed automatically granted.⁴³ The California PUC opposed the proposed “rebuttable presumption” that a state would lose jurisdiction if it did not complete processing the ETC application within the specified time period, and explained that its internal procedures would not permit processing of an ETC application within 90 days.⁴⁴ WISPA believes that not all states have the same procedures as California, and that the Commission must adopt a deadline so that support can be quickly made available to winning bidders.

³⁸ See also Comments of DISH Network L.L.C. and Hughes Network Systems, LLC, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014) (“DISH Comments”), at 6.

³⁹ See WISPA Comments at 10.

⁴⁰ See *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, *et al.*, FCC 14-98 (rel. July 14, 2014).

⁴¹ See, e.g., USTelecom Comments at 24; DISH Comments at 6; AT&T Comments at 50; UTC Comments at 23-24.

⁴² See ACA Comments at 15 (60 days); USTelecom Comments at 24; (same); DISH Comments at 5 (same).

⁴³ See WISPA Comments at 10.

⁴⁴ See California PUC Comments at 6-7.

A consensus of commenters also agreed that ETC designations should sunset after the funding term has expired and the recipient has completed its build-out and other obligations.⁴⁵ Some commenters point out that the Commission cannot require ETC obligations to be met in areas where support is no longer provided.⁴⁶ Further, as USTelecom and others emphasized, the ETC designation should apply only to the areas where support is allocated.⁴⁷ USTelecom and AT&T also urged the Commission to “de-link” Lifeline from ETC status,⁴⁸ a view WISPA also supports. To address the California PUC’s concerns that sunsetting obligations could leave an area without service,⁴⁹ WISPA does not oppose ACA’s recommendation that recipients submit a report in the tenth year on its future service plans.⁵⁰ Adopting these rules will encourage participation in the competitive bidding and other CAF programs while ensuring continuity of service.

Conclusion

WISPA strongly disagrees with commenters seeking to increase the speed for “unsubsidized competitors” so that privately funded broadband networks relying on existing rules and expectations do not face competition from price cap carriers that would partner with the Commission to overbuild their networks. WISPA also disagrees that the broadband speed benchmark should be increased to 10 Mbps at this time given the additional analysis that must be done to ensure that the finite amount of funds allocated to CAF Phase II does not increase. The Commission should not mandate the use of fiber for CAF Phase II funded deployment, but rather should allow recipients to use the fixed technology or technologies of their choice. WISPA

⁴⁵ See WISPA Comments at 10; USTelecom Comments at 23; ACA Comments at 16; AT&T Comments at 7, 49; DISH Comments at 7; Comments of Alaska Communications Systems, WC Docket No. 10-90, *et al.* (filed Aug. 8, 2014), at 32-33.

⁴⁶ See USTelecom Comments at 21; ACS Comments at 33.

⁴⁷ See USTelecom Comments at 22; AT&T Comments at 18; GCI Comments at 16.

⁴⁸ USTelecom Comments at 24; AT&T Comments at 7, 32-33.

⁴⁹ See California PUC Comments at 9.

⁵⁰ See ACA Comments at 16.

supports rules that would streamline the ETC process, limit ETC obligations to the funded areas and sunset ETC obligations at the end of the funding period upon satisfaction of build-out and public interest requirements.

Respectfully submitted,

**WIRELESS INTERNET SERVICE
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September 8, 2014

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