Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Universal Service Reform – Mobility Fund	)	WT 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

REPLY COMMENTS OF

THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

The Washington Utilities and Transportation Commission (UTC)[1] respectfully submits the following reply comments in response to the Federal Communications Commission's (Commission) Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking (FNPRM). Pursuant to the FNPRM, the Commission seeks comment on a number of potential reforms to its

[1] The UTC has authority to "participate in proceedings before federal administrative agencies in which there is at issue the authority, rates or practices for transportation or utility services affecting the interests of the State of Washington, its businesses and general public . . . ." Wash. Rev. Code §80.01.075.

ongoing efforts to modernize federal policies concerning universal service funding for broadband services.[2]

I. Introduction

As reflected in previous comments submitted to the Commission in this proceeding,[3] the UTC strongly supports the Commission's efforts to address the complex issues surrounding promotion of widespread deployment of broadband service in the context of revisions to the nation's existing universal service support funding mechanism. The UTC also recognizes and supports the Commission's objective to establish Connect America Fund (CAF) rules that are most efficient at promoting broadband investment by certain eligible carriers, while endeavoring to maintain balanced competitive conditions for all providers of such services.

Although the UTC has direct authority over the provision of telecommunications service in Washington, its authority with respect to broadband services is less direct. Nevertheless, as a result of a number of major telecommunications proceedings and by virtue of continual inquiries from state legislators, consumers, and others, the UTC routinely delves into broadband issues, particularly deployment and availability issues on behalf of various constituencies.[4] The UTC's own experience exemplifies the importance of widespread availability of high-quality broadband services and, accordingly, it shares the Commission's objective to promote broadband availability across the nation in the most economically feasible manner.

While the FNPRM tees up a full range of important investigative and methodological considerations regarding broadband funding, the UTC's reply comments focus only on those issues that it believes are most critical at this time for Washington's telecommunications and

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[2] 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, ¶ 138 (*CAF Phase II FNPRM*) (released. June 10, 2014).

[3] See generally, Comments of the Washington Utilities and Transportation Commission, filed April 18, 2011, and July 11, 2012.

[4] Over the past five years, broadband deployment and service performance issues have been addressed in several prominent merger proceedings involving major telecommunications carriers subject to the UTC's jurisdiction and in two proceedings involving substantially reduced economic regulation of the state's major incumbent telephone companies; CenturyLink and Frontier Communications. Additionally, the UTC's consumer protection and policy divisions routinely address broadband availability and service quality inquiries and actively work to resolve such inquiries whenever possible.

broadband consumers. In particular, the UTC supports several aspects of the comments submitted by CenturyLink, Windstream Corporation (Windstream), and the United States Telecom Association (USTelecom), proposing sensible modifications to the Commission's CAF Phase II funding rules.[5]

II. The Commission Should Modify Its CAF Phase II Funding Rules to Improve the Cost-Effectiveness of the Program and Expand the Potential Range of Consumers That Would Benefit From Such Funding.

In the FNPRM, the Commission seeks comment on potential changes to the CAF Phase II funding process to improve its efficacy and cost-effectiveness in extending and supporting broadband services in higher-cost, more rural areas of the nation. The Commission acknowledges the complexities of providing broadband services using various technologies and across varying geographic conditions. Recognizing that the Wireline Competition Bureau's (Bureau's) Connect America Model (CAM) is an essential tool in establishing CAF Phase II funding levels, the Commission nonetheless concedes that the initial funding mechanism it established (the CAM) may require some fine-tuning to achieve a more precise outcome, one that empowers potential funding recipients with the flexibility needed to extend service to as many potential unserved broadband consumers as feasible in the most cost-effective manner possible.[6]

The Bureau has previously determined that, for purposes of the Phase II challenge process, census blocks shown as partially served on the National Broadband Map are to be treated as fully served.[7] At the time the Bureau adopted the CAM it assumed that the complexities associated with conducting a challenge process at a sub-census block level would be time consuming and burdensome for all affected parties. The Commission now seeks comment on whether the CAF Phase II funding process will achieve its full potential unless it is implemented in a manner that realistically accounts for the challenges inherent in designing, planning, and deploying networks in uneconomic rural areas that may very well differ from the

[5] Individually submitted Comments of CenturyLink, Windstream Corporation, and the United States Telecom Association (August 8, 2014).
[6] CAF Phase II FNPRM at ¶¶163-67.
[7] *Phase II Challenge Process Order*, 28 FCC Rcd at 7220, para. 22.

assumptions built into the CAM-determined support being offered to eligible carriers considering a state-level commitment to receive CAF Phase II funding.

In their comments, CenturyLink, Windstream, and USTelecom propose a number of revisions to the Commission's CAF Phase II funding rules intended to adapt them better to the realities of actual broadband network design, planning and deployment and to allow funding recipients to better to utilize CAF monies to extend service as widely and cost-effectively as possible. Of the changes recommended by the commenting parties, the UTC supports three reasonable modifications that it believes will enhance prospects for more robust and timely broadband deployment in Washington.

First, the UTC supports the proposals by CenturyLink, Windstream, and USTelecom to modify the CAF Phase II funding rules to provide flexibility for a recipient of funding to build-out broadband service to less than 100 percent (but at least 90 percent) of the service locations in all of the identified census blocks in a state, subject to a directly proportional reduction in CAF Phase II support for each identified service location to which service is not extended.[8] The UTC agrees with the commenters that the current CAF Phase II funding process, reflecting a "one-size-fits-all" approach for served or unserved census block as determined by the CAM, is an unnecessary threshold test that may effectively prohibit more cost-effective broadband deployment as widely as possible.

Second, the UTC agrees with the companies' positions that access to CAF Phase II support should be available to eligible carriers to deploy broadband service to high-cost locations in partially-served census blocks that a competitor does not serve and will not commit to serve even if portions of such blocks are tainted by the competitive presence of another provider.[9] The revisions proposed by the CenturyLink, Windstream, and USTelecom would enable providers to extend broadband service to most consumers in unserved census blocks and to consumers in partially served census blocks that reside in those pockets of such blocks where unsubsidized competitors may not offer a competitive alternative. Together, these parties' proposed rule changes would enhance prospects for wider broadband deployment by tempering the underlying economics of serving a high-cost census block in a way that would not effectively preclude

[8] CenturyLink Comments at 17, Windstream Comments at 5, and USTelecom Comments at 13.
[9] CenturyLink Comments at 18, Windstream Comments at 5, and USTelecom at 15.

extension of broadband service to the majority of consumers in such blocks, regardless of whether a census block is designated as served or unserved as determined by the CAM. As CenturyLink points out, such CAF Phase II funding rules are unduly rigid and may result in less efficient broadband investment because, as currently crafted, CAF Phase II funding would only be available in designated unserved census blocks with higher per household costs than the incremental cost per household associated extending broadband service within partially served census blocks, resulting in less economic deployment to potentially fewer consumers. Although the UTC understands the Commission's desire to offer funding only where it can be demonstrated that an unsubsidized competitor does not exist, it endorses CenturyLink's, Windstream's and USTelecom's efforts to inject an improved level of granularity, subject to a robust challenge process, in assessing where competitive alternatives do or do not exist in order to broaden the areas where CAF Phase II monies may be utilized most effectively.

Additionally, the UTC agrees with CenturyLink, Windstream, and USTelecom that the Commission should permit recipients of CAF Phase II support to satisfy their deployment obligations if they have built out broadband networks at 10Mbps down/1Mbps up to at least 90 percent of the total households within eligible census blocks, measured on a statewide basis. Under their proposal, if a recipient elects to serve between 90 and 100 percent of the total locations in all the identified census blocks in a state, its CAF Phase II funding should be reduced commensurately on pro rata basis for the extent to which is serves less than 100 percent of the service locations of the CAM-identified census blocks.

In Washington, the state's geographic and topographic differences, coupled with widely ranging population densities across 39 counties, make it critical that the rules the Commission uses to distribute CAF monies for broadband services takes into account the complexities of delivering meaningful broadband services in the state.[10] The state's census blocks vary dramatically by size, shape, and density. Although Washington's residents in many areas may select from a number of broadband providers using varying wireline and wireless technologies, the UTC's experience with consumer and other stakeholder inquiries regarding availability

[10] In terms of population and density per square mile, Washington's smallest county is Garfield County with approximately 2,250 residents across 710 square miles, which produces a density ratio of 3.2 residents per square mile. In contrast, Washington's largest county using the same criteria is King County, which, with approximately 1.9 million residents across more than 2,100 square miles, has a density ratio of approximately 898 residents per square mile.

demonstrates that there are many areas of the state where broadband availability is spotty at best and certainly not ubiquitous throughout an area. Additionally, because Washington has substantial mountainous areas, including the Cascade Range that divides the state from North to South, the UTC believes that CAF funding rules should be malleable to some degree in order allow funding recipients the flexibility to address the intricacies of providing broadband service where rigid application of the Commission's rule may otherwise deter or prevent broadband deployment.

Accordingly, the UTC believes that CAF Phase II support should be available to eligible providers to deploy broadband to, and meet build-out obligations with, unserved locations in partially-served high-cost or extremely high-cost census blocks where a competitor is not offering service or committing to offer service to a location. The UTC agrees with CenturyLink, Windstream and USTelecom that ignoring the reality of the presence of consumers in partially-served census blocks, or leaving behind consumers due to inaccurate location counts in individual census blocks has no public benefit when the carrier can deploy service to such locations in a cost effective manner. If eligible carriers are not afforded some flexibility to serve less than 100 percent of a census block or use support to address areas where an unsubsidized competitor does not truly offer service, such high-cost areas are highly unlikely to receive the benefits of any CAF Phase II support and, most troublingly, potential broadband consumers in such areas may never have reasonable access to broadband services.

Finally, the UTC supports the proposals of CenturyLink, Windstream and USTelecom to extend the time frame for CAF Phase II funding availability and build-out periods for any carrier considering making a state level commitment.11 Collectively, these commenting parties urge the Commission to extend the time frame from five years to 10 years to be commensurate with the funding time frame the Commission intends to provide to any potential broadband provider that wins support to serve an area through the CAF Phase II competitive bidding process. The UTC sees no compelling reason to have inconsistent funding approaches for potential CAF Phase II monies when the potential broadband service objectives and requirements are identical upon acceptance of a funding award.

[11] CenturyLink Comments at 20, Windstream Comments at 3, and USTelecom Comments at 4.

III. Conclusion

For all of the foregoing, the UTC urges the Commission to adopt moderate but important changes to its CAF Phase II funding rules to enable eligible recipients the flexibility to cost-effectively use such funding to extend broadband services to as many unserved consumers as possible. Whether consumers reside in a completely unserved or partially-served census block, the overriding emphasis of the Commission's rules should be to use CAF Phase II monies to facilitate extension of service to such consumers. Additionally, extending the funding time frame from five to 10 years is an appropriate measure to ensure carriers are willing and able to take on all aspects of a state-level offer of CAF Phase II funding to help realize the Commission's primary broadband deployment objectives.

Respectfully submitted this 8th day of September, 2014.

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