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	)	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 UNITED STATES TELECOM ASSOCIATION

The United States Telecom Association ("USTelecom")[1] respectfully submits its reply to comments on the Further Notice of Proposed Rulemaking ("*Further Notice*")[2] in the above-captioned dockets. USTelecom supports an efficient and effective universal service high-cost program for price cap carriers, rate-of-return carriers, and carriers located in insular areas that elect frozen support. The Commission needs to move forward promptly and reasonably to finalize universal service high-cost mechanisms.

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[1] USTelecom is the premier trade association representing service providers and suppliers for the telecom industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications service to both urban and rural markets.

[2] *See 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), Report and Order ("*Report and Order*"), Declaratory Ruling, Order ("*Order*"), Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking ("*Further Notice*") (rel. June 10, 2014).

I. Ten Years is the Appropriate Term of Support and Buildout Period for All CAF Phase II Support Recipients

USTelecom agrees with the many commenters who support increasing the broadband speed standard from 4/1 Mbps to 10/1 Mbps for CAF Phase II, conditioned on concurrent changes being made to the other terms of the statewide offer. Those changes should include a ten-year term of support and buildout period, flexibility to deploy to less than 100 percent of eligible locations, the ability to substitute locations in partially-served census blocks for those in unserved census blocks, and certainty as to the required performance standards during the term of support.[3]

Five years is an insufficient term of support and buildout period even for the current 4.1 Mbps standard. There is a significant difference in the design and associated costs of a network designed to meet the proposed 10/1 Mbps higher speed standard, thus the need for an extended term of support and buildout period.[4] In addition, as ADTRAN noted, providing an extended support and buildout period "should also result in lower costs for CAF Phase II in the long run":

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[3] *See, e.g.*, Comments of Commissioner Scott T. Rupp, Missouri Public Service Commission, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 3-4 (August 5, 2014) (Missouri PSC Comments); Comments of the Utah Public Service Commission, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 1 (August 6, 2014) ("since higher speeds will require a higher level of investment to provide the services, the allowed time to complete a project should also be extended"); Comments of the Idaho Public Utilities Commission, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 2 (August 7, 2014) (supporting a term of seven to 10 years); Comments of ADTRAN, Inc., WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 9-10 (August 8, 2014) (ADTRAN Comments).

[4] *See* Missouri PSC Comments at 3-4 ("those carriers that accept the state-level commitment will be making a significant investment and undergoing an extensive deployment process in the rural areas of Missouri that would otherwise be uneconomic to serve and unlikely to receive broadband in the foreseeable future perhaps even under the competitive bidding process. Therefore, a reasonable matching of the funding and required buildout period is critical to the successful introduction of new and faster broadband to these areas and . . . ten years best achieves that balance.").

> The recent experiences with deployment of broadband in connection with the stimulus programs taught us that there is limited capacity in this country for the required engineering and construction skills – as well as manufacturing capacity for the necessary equipment – required to deploy broadband services. And the CAF Phase II program will require significantly more effort than one-time stimulus deployments. An extended period of construction under CAF Phase II will allow these various engineering, construction and manufacturing capabilities to ramp up, rather than just "bidding up" the price of the constrained capabilities and resources available presently.[5]

The American Cable Association ("ACA") contends that because the Wireline Competition Bureau ("Bureau") structured the CAM using a greenfield fiber-to-the-home (FTTH) network design and technology, the CAM is a "future-proof" model that accounts for the cost of and provides support for any increase in broadband transmission speed and thus price cap carriers receiving model-based support require no additional time or funding to deploy 10/1 Mbps broadband.[6] However, the CAM does not provide support for the construction of a complete FTTH network within the current budget constraints. Such a network would cost several multiples of the funds being made available through CAF Phase II. Instead, the CAM serves as a distributional mechanism to allocate funds as efficiently as possible within the CAF Phase II budget. As noted by CenturyLink,[7] the CAM assumes that the FTTH network will have a long useful life (e.g., 25 years for the fiber that accounts for the bulk of the cost) and spreads the network costs over that long life. The Commission, however, is contemplating a much shorter funding period, such as the ten-year period recommended by USTelecom. This shorter funding period means that carriers will not receive nearly enough support to make a FTTH network economical. A 10/1 Mbps standard would necessitate that fiber be deployed deeper into

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5 *See* ADTRAN Comments at 9-10.

6 *See* comments of American Cable Association (ACA), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 2 (August 8, 2014) at 5.

7 *See* comments of CenturyLink, Inc. (CenturyLink), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 2 (August 8, 2014) at 8, n. 8.

the network than the current 4/1 standard and thus would require more plant investment, and thus warrants additional funding, contrary to ACA's implication.

Similarly, there is no value in ACA's suggestion to rerun the CAM with new revenue inputs to factor in higher revenues expected from provision of faster service. Any speculative incrementally higher revenues from provision of 10/1 Mbps service versus 4/1 Mbps service will undoubtedly be offset by the greater expense of building a 10/1 Mbps network rather than a 4/1 Mbps network in currently unserved areas, and by the additional costs of upgrading locations that currently have access to 4/1 Mbps broadband.

II. It is Sensible to Promote Flexibility in Meeting Deployment Obligations

It serves the Commission's universal service goals to promote flexibility in meeting deployment obligations. Flexibility encourages efficient network design and potentially increases the number of locations that can be served with a given amount of CAF Phase II support. USTelecom supports the two forms of flexibility discussed in the *Further Notice:* the ability to deploy to less than 100 percent of the locations in a price cap company's funded areas,[8] and permitting CAF Phase II recipients to substitute unserved locations within partially served census blocks for locations within funded census blocks.[9] CAF Phase II recipients will be entering into an ambitious commitment to extend broadband service to the challenging areas of rural America not currently served by broadband that meets even the 3/Mbps/768 kbps standard. Permitting prudent and efficient network design by allowing a reasonable level of flexibility as facilities are actually built out and the situation on the ground is determined will increase the cost-effectiveness of all CAF Phase II funds. CenturyLink clearly explains the need for flexibility in its comments:

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8 *See Further Notice* at ¶ 165.

9 *Id.* at ¶ 167.

> In the aggregate, the CAM is a useful model for estimating how much it will cost to deploy broadband in a given area. Nonetheless, the CAM is a model, and all models are imperfect representations of the real world. In turn, it is critical for the success of CAF II that there be sufficient flexibility built into the service obligations of CAF II recipients to accommodate the differences that will necessarily occur between the CAM modeling and actual CAF II-supported broadband deployment.[10]

ACA and the National Cable and Telecommunications Association ("NCTA") oppose this sensible flexibility. ACA opposes the Commission's proposal to permit a limited reduction in the number of locations served because of the difficulty in precisely determining the concomitant reduction in support.[11] ACA goes on to explain the many factors affecting the cost to serve a particular location and that in some cases, removing locations will lower the cost profile of nearby locations while in other cases raising the cost profile of nearby locations. The lack of precision and administrability of a location-by-location system for determining the cost impact of location flexibility are precisely the reasons that USTelecom supports having percentage support reductions equal to the percent of locations served below 100 percent. But while agreeing with USTelecom that anything other than a straight-line support reduction would be difficult to administer, ACA does not counter the argument that this sensible flexibility encourages efficient network design and potentially increases the amount of locations that can be served with a given amount of CAF Phase II support. The Wireless Internet Service Providers Association ("WISPA"), an association of fixed wireless providers that, like the cable providers, presumably anticipates its members participating in the CAF Phase II competitive bidding process, supports a "reduction to 95 percent so long as any shortfall is accompanied by a

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10 *See* comments of CenturyLink at 14.

11 *See* comments of ACA at 10.

reduction in support levels that corresponds to the reduced number of locations."[12] The Commission itself has observed that "This approach could enable more effective network deployment and bring service to unserved consumers in those partially served census blocks."[13]

Both ACA and NCTA oppose use of CAF Phase II funding in partially-served census blocks. NCTA evidences no concern about the unserved households in partially served census blocks that would be unable to access the benefits of broadband absent this proposal while complaining that the "administrative burdens on cable companies would be even greater than the existing challenge process."[14] Commissioner Scott T. Rupp of the Missouri Public Service Commission correctly asserts in his comments that "this flexibility is appropriate because it will help bring broadband service to isolated unserved areas of a census block that would otherwise be classified as fully served."[15]

III. The Commission Should Only Remove an Area from CAF Phase II Eligibility If and When Such Area Receives Formal Commission Approval for Broadband Experiment Funding

The Commission should not disqualify any areas from eligibility for the statewide election in CAF Phase II based on a mere proposal in the rural broadband experiments process. Only funded projects should block out areas from such eligibility and only if the experimental projects are selected prior to the statewide election. The rural broadband experiments process is

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12 *See* comments of Wireless Internet Service Providers Association (WISPA), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, (August 8, 2014) at 8.

13 *See Further Notice* at ¶ 167.

14 *See* comments of National Cable and Telecommunications Association (NCTA), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, at 2 (August 8, 2014) comments at 8.

15 *See* comments of Commissioner Scott T. Rupp of the Missouri Public Service Commission at 3. The Idaho Public Service Commission also believes it is reasonable for carriers to serve less than 100 percent of the funded locations (*see* Idaho PSC Comments at 2-3).

essentially a pilot program to learn about the competitive bidding process and technological approaches to rural broadband and should not divert attention from implementing the universal service policies the Commission has already adopted.

In its comments, the Utilities Telecom Council ("UTC") argues that the Commission should open price cap areas to competitive bids where there are proposals to provide rural broadband experiments.[16] UTC is effectively attempting to have the Commission reconsider the offer of a state-level commitment to price cap companies prior to implementation of the CAF Phase II competitive bidding process. UTC is quite transparent about its goal, stating that "[t]he Commission should adopt this proposal so that all rural broadband experiments that did not succeed in obtaining access to the $100 million in that program would be able to compete with price cap carriers to access the $18 billion that is available under CAF Phase II."[17] Making a similar argument, the National Rural Electric Cooperative Association ("NRECA") admits "the relatively low likelihood of any particular applicant receiving an award for a rural broadband experiment,"[18] but appears unconcerned with denying rural consumers the benefits of CAF Phase II broadband funding based on mere broadband experiment proposals.

Disqualifying areas from the statewide commitment process based on applications for broadened experiment funding opens up a tremendous opportunity for gaming. A prospective participant in the competitive bidding process could preserve for itself an opportunity to bid on an area in the CAF Phase II auction by submitting a formal proposal for a broadband experiment

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16 *See* comments of the Utilities Telecom Council (UTC), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, (August 8, 2014) at 6.

17 *Id.* at 6-7.

18 *See* comments of National Rural Electric Cooperative Association (NRECA) WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, (August 8, 2014) at 15.

in the area which it either never intended to honor if selected or contained an element that guaranteed it would not be selected. The Commission should not disqualify any areas from eligibility for the statewide election in CAF Phase II based on a mere proposal in the rural broadband experiments process.

IV. The Commission Should Reform the ETC Designation

Congress created the ETC designation in the Telecommunications Act of 1996, tying ETC status (and the obligations that accompany it) to the receipt of federal universal service support. A company must be designated as an ETC in order to receive federal universal service support and – in exchange – the company must "offer the services that are supported by Federal universal service support mechanisms" throughout the service areas for which it is designated as an ETC.[19]

There was strong support in the comments on the *Further Notice* with respect to reforming the governing framework for ETC obligations under the CAF Phase II universal service support mechanism.[20] AT&T stated that "[t]he FCC must sunset price cap carriers' ETC designations in areas where they cannot receive or choose not to receive any high-cost support, including CAF II support. And that action should occur either at the time the FCC offers price cap carriers the 'state-level commitment' or when an ETC declines its high-cost support, whichever occurs earlier. The FCC also should limit its CAF II service obligations to those that are specific to the service that CAF II-eligible areas lack – broadband – and not require recipients

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[19] 47 U.S.C. §§ 214(e)(1), 254.

[20] *See* comments of Alaska Communications Systems (ACS), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, (August 8, 2014) at 32-34, CenturyLink at 22-23, General Communication Inc. (GCI), WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, (August 8, 2014) at 16, and ITTA, WC Docket Nos. 10-90, 14-58, 07-135, WT Docket No. 10-108, CC Docket No. 01-92, (August 8, 2014) at 18-20.

to offer voice on a standalone basis or to participate in the Lifeline program."[21] The California Public Utilities Commission and the People of the State of California agree, saying that "once an incumbent LEC no longer receives federal high-cost support, ETC requirements associated with that support should no longer be applicable."[22]

V. Conclusion

USTelecom supports an efficient and effective universal service high-cost program funded within the budget limits adopted in the *USF/ICC Transformation O*rder. Appropriate policy decisions made pursuant to the *Further Notice* will serve to accelerate the provision of voice and broadband service to rural Americans. The Commission needs to promptly move forward to finalize universal service high-cost mechanisms for both price cap and rate-of-return carriers.

Respectfully submitted,

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September 8, 2014

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[21] *See* comments of AT&T Services at 6-7.

[22] *See* comments of The California Public Utilities Commission and the People of the State of California at 10.