

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Telecommunications Carriers Eligible to Receive Universal Service Support)	WC Docket No. 09-197
)	
Connect America Fund – Alaska Plan)	WC Docket No. 16-271
)	
Expanding Broadband Through the ACAM Program)	RM-11868
)	

**REPLY COMMENTS
OF
NTCA–THE RURAL BROADBAND ASSOCIATION**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these Reply Comments in response to those parties addressing the Notice of Proposed Rulemaking in the above-captioned Federal Communications Commission (the “Commission”) proceedings.² NTCA explained in its initial comments why, as a matter of interagency coordination and providing a reasonable time for assessment of reforms just enacted, it would be prudent to defer further steps with respect to modifications of high-cost universal service programs as discussed in

¹ NTCA is an industry association composed of approximately 850 community-based companies and cooperatives that provide advanced communications services in rural America and more than 400 other firms that support or themselves are engaged in the provision of such services.

² *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.*, Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry (rel. July 24, 2023) (“*NPRM*” or “*Enhanced A-CAM Order*,” as applicable).

the *NPRM*.³ As NTCA stated, the Commission should take appropriate account of the shifting landscape with respect to the overall high-cost program it just set in motion via the *Enhanced A-CAM Order* and factor in as well grant programs poised to launch or just now beginning their work before considering how further to change Connect America Fund-Broadband Loop Support (“CAF-BLS”) and other programs. A number of parties join NTCA in counseling against further action at this time, reflecting consensus support for a thoughtful and measured approach to next steps with respect to these mechanisms. The record supports as well addressing the unsubsidized competition implications for CAF-BLS recipients in coordination with refreshed deployment obligations adopted after the potential impacts of the Broadband Equity, Access, and Deployment (“BEAD”) program and other grant initiatives are more well known in these areas.

In initial comments, NTCA identified a series of reasons why the Commission should not undertake significant structural updates in the near term to the CAF-BLS, High-Cost Loop Support (“HCLS”) and Connect America Fund-Intercarrier Compensation (“CAF-ICC”) support mechanisms. Among other things, it is possible that dozens of CAF-BLS providers (if not more) and their attendant support flows will soon migrate to the enhanced Alternative Connect America Cost Model (“A-CAM”), and the CAF-BLS/HCLS budget has just been recalibrated as well – taking the time to assess the impact of these changes just enacted will allow for development of a more thoughtful, targeted plan for what may need to happen next. In addition, the urgency for immediate action is likely lessened due to the fact that the growth in consumer broadband-only lines (“CBOLs”) – and importantly the impact of CBOL conversions on the budget – may have stabilized to some degree.

³ Comments of NTCA – The Rural Broadband Association (“NTCA”) WC Docket No. 10-90, et al., (fil. Sep. 18, 2023).

Moreover, as NTCA noted in initial comments – and as a broad cross-section of interested parties agrees⁴ – the Commission would be well-advised to take stock of the impacts that various broadband grant programs may have on broadband availability in areas served by CAF-BLS recipients before establishing new deployment obligations under the latter program, undertaking substantial efforts at disaggregation of support, or making other programmatic changes. As NCTA states, “[b]ecause the BEAD program is just starting to be implemented, the Commission should defer commencement of the next CAF BLS term and any budget control modifications for at least one year, to be able to determine where BEAD funding will be allocated and see if there will be any locations left unserved or underserved.”⁵ WISPA echoes this argument as well, noting that the Commission should defer “new requirements” for CAF-BLS/HCLS recipients until at least January 1, 2025.⁶ WISPA in particular notes that new deployment obligations at this time would “introduce uncertainty for CAF BLS recipients that could result in a moving deployment target.”⁷

Even as NCTA later in the same comments backpedals slightly from its overarching “wait and see” position, it misses the mark in arguing specifically for the phasing out of the HCLS and CAF-ICC mechanisms.⁸ NCTA’s assertion that the Commission has “yet to phase down” CAF-

⁴ Comments of NCTA – The Internet & Television Association (“NCTA”), WC Docket No. 10-90, et al., (fil. Sep. 18, 2023), p. 3; Comments of WISPA – Broadband Without Boundaries (“WISPA”), WC Docket No. 10-90, et al., (fil. Sep. 18, 2023), p. 4.

⁵ NCTA, p. 3.

⁶ WISPA, p. 4. (“WISPA does not object to deferring the new requirements until January 1, 2025 to afford the Commission time to determine where the new deployment obligations should apply. Congress has allocated billions of dollars of funding toward broadband expansion efforts through the Coronavirus Aid, Relief, the Economic Security Act, the American Rescue Plan Act, and the IJJA.”). *See also*, Comments of WTA – Advocates for Rural Broadband (“WTA”) WC Docket No. 10-90, et al., (fil. Sep. 18, 2023), p. 2.

⁷ WISPA, p. 4.

⁸ NCTA, p. 7.

ICC⁹ overlooks that the operation of existing rules does precisely this automatically – as NTCA noted in initial comments, CAF-ICC (and HCLS as well), by design and through operation of the Commission’s existing rules, are declining and thus reducing their overall impact on the budget.¹⁰ At the same time, as the Concerned Rural LECs note, these mechanisms are still a valuable part of predictable support that keeps rates “reasonably comparable” in rural areas.¹¹ Thus, as NTCA noted in initial comments, the Commission’s focus should be on the implications of the broader changes it has enacted rather than tinkering with CAF-ICC and HCLS mechanisms that continue to decline as a budgetary matter over time.

Similarly, nothing in the record supports immediate action on implementing changes to reflect competitive overlap. Rather, like the establishment of new deployment obligations, this too will turn in significant part on where BEAD and other grant programs are found to have taken on subsequent responsibility for the deployment of higher-speed broadband in these service areas – considering potential support disaggregation now based on the current state of competition would neglect the effects of these programs still to come, resulting in the need to “do this all over again” in only a few years’ time. It would be far more efficient and complete to undertake such efforts only once initially, and it is telling that even those parties urging the Commission to address this issue¹² specifically do *not* suggest *immediate* action to do so.

In terms of implementation of such measures once the timing is right, while NCTA proposes a location-based approach to the disaggregation and reduction of CAF-BLS support

⁹ *Id.*

¹⁰ NTCA, p. 7.

¹¹ Comments of the Concerned Rural LECs, WC Docket No. 10-90, et al., (fil. Sep. 18, 2023), p. 7-8.

¹² NCTA, pp. 4-5; WISPA, pp. 5-6.

where such competition is found to exist,¹³ it fails to offer any details on how such a process would work. The assurance that the Commission should have as to whether a purported competitor can effectively fulfill the mission of universal service in place of the CAF-BLS recipient before it begins reducing support to the latter thus cannot be found in NCTA's limited and undeveloped proposal. Instead, as the record at this time supports, the existing "85% competitively served" rule already found in the Commission's rules is the right approach,¹⁴ and the Commission should begin work from the current structure in finalizing a disaggregation framework that will be ready to implement once the effects of various grant programs can be discerned.

Finally, the Commission should reject the NCTA proposal to eliminate the requirement that unsubsidized competitors should provide voice service.¹⁵ That "[b]roadband networks can provide voice service"¹⁶ misses the point – the fact that an unsubsidized competitor not subject to performance testing obligations offers a broadband connection that can support an over-the-top voice connection procured by the customer on his/her own is simply not enough of an assurance that the mission of universal service will be achieved. Moreover, it is worth noting that voice is itself the supported service, meaning that the mission of universal service cannot be deemed achieved unless voice is *in fact* available in the area and to each location in question. Indeed, the Communications Act of 1934, as amended (the "Act") speaks directly to this issue. The plain language of Section 254 of the Act mandates that only entities designated as eligible telecommunications carriers ("ETCs") pursuant to Section 214 of the Act receive federal USF support, and directs that such support be used in connection with the offering of supported

¹³ NCTA, p. 4.

¹⁴ WISPA, p. 5.

¹⁵ NCTA, fn. 8.

¹⁶ *Id.*

telecommunications services.¹⁷ In turn, voice telephony is the “supported telecommunications service.”¹⁸ Section 214(e)(1), moreover, indicates that only a telecommunications carrier (“TC”) – defined elsewhere in the statute as a provider of a telecommunications service (“TS”) (a term also defined in the statute)¹⁹ – can be designated as an ETC.²⁰ Put another way, the Act is unmistakably clear that: (1) to receive USF, an entity must be an ETC; (2) to be an ETC, an entity must be a TC; and (3) to be a TC, an entity must offer a TS. Thus, when it comes to assessing whether an unsubsidized competitor can stand in place of universal service support to fulfill the comprehensive statutory mission of universal service, it is clear that the offering of voice telephony is by law a required part of such analysis.

Respectfully submitted,

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¹⁷ 47 U.S.C. §§ 254(e) and (c)(1).

¹⁸ *Connect America Fund*, et al., WC Docket No. 10-90, et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692 (2011) (“USF/ICC Order”), at ¶¶ 77-79.

¹⁹ 47 U.S.C. §§ 153(51) and (53).

²⁰ 47 U.S.C. § 214(e)(1).