

**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
REGARDING NOTICE OF INQUIRY**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby submits these Reply Comments addressing the record compiled in response to the Notice of Inquiry released by the Federal Communications Commission (the “Commission”) in the above-captioned proceedings.² The input solicited in response to the *NOI* confirms that even as the *Enhanced A-CAM Order* will connect millions of rural locations with 100/20 Mbps and better broadband service – and even as other funding initiatives will do the same for millions of unserved consumers – a sustainability framework is necessary to ensure that these grant programs and the Commission’s high-cost

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) (“*NOI*” or “*Enhanced A-CAM Order*,” as applicable).

universal service fund (“USF”) programs can preserve these gains and ensure the affordability of services for all rural consumers over the long-term after networks are initially built.

As an initial matter, and as laid out in greater detail in NTCA’s initial comments,³ Section 254 of the Communications Act of 1934, as amended (“the Act”) makes clear that on the question of sustainability, it is a question of *how* and not *whether* the Commission’s universal service programs advance this principle. The repeated references to *services*, and not to networks, found in Section 254 reflect a Congressional recognition that the ultimate objective is *keeping consumers connected* with *services* upon which they can rely to communicate with family, friends, neighbors, business partners, teachers, doctors, and others across the country and throughout the world. A number of parties join NTCA in noting this, with TCA pointing to the “need for nimble and responsive USF programs to sustain robust, cost-effective full-service broadband networks into the future.”⁴

Moreover, not only did Congress make clear in crafting Section 254 that sustainability is part and parcel of the mission of universal service, this directive comes across clearly as well in the Infrastructure Investment and Jobs Act (“IIJA”).⁵ There, legislators specifically instructed the Commission to avoid abandoning or otherwise neglecting the continuing mission of universal service simply because grants would be coming online that aimed to provide “Internet for All.”

³ Comments of NTCA–The Rural Broadband Association, (“NTCA”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), pp. 2-7.

⁴ Comments of TCA, WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 2. *See also*, Comments of Leaco Rural Telephone Cooperative, Inc. (“Leaco”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 1; Comments of The Rural Wireless Association, Inc. (“RWA”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 1; Comments of Vantage Point Solutions, Inc. (“VPS”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 5; Comments of The Alaska Telecom Association (“ATA”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 10.

⁵ Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, 1205 (2021) (“IIJA”).

Specifically, Congress enacted Section 60104 of the IJA,⁶ which in turn prompted the Commission’s “Report on the Future of Universal Service,” which interpreted that provision of the IJA as directing the agency to “expand” and not “reduce” the “congressional mandate to achieve the universal service goals for broadband.”⁷ The *Enhanced A-CAM Order* itself captured this notion, including an explicit recognition that such carriers will “continue to experience ongoing operational and depreciation costs associated with these already-constructed locations.”⁸

Like NTCA, a number of parties recognize that the Broadband Equity Access and Deployment (“BEAD”) program and similar initiatives will be significant in connecting the unserved, but nonetheless they are mere starting points in achieving universal service. USTelecom, for example, correctly states that, “the areas where deployment will be supported by BEAD funds are parts of the country where there is no business case for deployment due to the population density and/or the geographic nature of the region. Some of these and similarly situated high-cost and remote areas may need USF to support on-going operating expenses (Opex) to maintain and upgrade broadband service once the deployment is complete.”⁹ Home Telephone notes as well that “building a network does not ensure it has the financial ability to continue to maintain, upgrade, and operate a service in areas where cost might exceed available customer revenues.”¹⁰

⁶ *Id.*, § 60104.

⁷ *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Report, FCC 22-67 (rel. Aug. 15, 2022), ¶ 10, citing IJA § 60104(c)(3).

⁸ *Enhanced A-CAM Order*, at ¶ 74.

⁹ Comments of USTelecom – The Broadband Association, (“USTelecom”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 4.

¹⁰ Comments of Home Telephone ILEC LLC d/b/a Home Telecom (“Home”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 2.

Of course, as NTCA noted in initial comments, it cannot be presumed as a matter of course that ongoing support will be necessary in all instances to sustain networks and services;¹¹ targeting support to those areas where it is needed should be the first logical step in crafting a sustainability framework. With respect to *how* a sustainability framework can be constructed and used to target support only to where it is needed, several parties join NTCA in pointing to the current cost model as an obvious “starting point”¹² to tackling sustainability. Even as it must be acknowledged that the “existing model has seen no major revisions since its adoption,”¹³ and even as “the costs within the model were derived largely from (and designed largely to estimate) the costs of investment and operations for a small subset of larger broadband providers,”¹⁴ a notice of proposed rulemaking could engage in a detailed review of model inputs to reveal where it is currently lacking for the purposes of advancing sustainability. Once this is complete, the model can then highlight for the Commission where locations served via USF or through various grant programs require ongoing support to ensure that services atop those networks once built will meet consumers broadband needs on a continuing basis. Of course, it must also be noted that the “actual cost” mechanisms – Connect America Fund-Broadband Loop Support (“CAF-BLS”) and High Cost Loop Support (“HCLS”) – are also by design and operation sustainability programs, with support levels adjusting as the capital costs of deploying networks are recovered and providing ongoing recovery thereafter aimed at supporting operating expenses and promoting reasonable comparability of rates between

¹¹ NTCA, p. 8.

¹² USTelecom, p. 5; Home, p. 13.

¹³ Home, p. 13.

¹⁴ NTCA, p. 16.

rural and urban areas. The CAF-BLS and HCLS programs should therefore sit aside an updated model in a comprehensive sustainability framework.

Against this backdrop of consensus, NCTA stands as a lone voice in questioning whether any demonstration has been made as to the need for a sustainability framework.¹⁵ To be sure, the question of *how* such a framework should be designed and where it will be needed are important questions for a future notice of proposed rulemaking – but to assert boldly that support mechanisms are largely unnecessary rings hollow (and sounds particularly discordant coming from an association that represents substantial recipients of high-cost USF support themselves).¹⁶ Besides the fact that the Commission has repeatedly recognized the ongoing significance of the universal service mission in recent orders and reports, data provided by two large groups of RLEC High-Cost support recipients¹⁷ demonstrate that the need for a sustainability framework is not merely theoretical, and as one member of that group states, “[w]ithout support, the Company cannot continue to support the maintenance of the broadband network that is has built to serve its rural customers.”¹⁸ As the ACAM LECs state, the data in the record so far “provide[s] a suitable dataset from which the Commission may begin,”¹⁹ and thus the agency has a basis to move forward and turn to an updated model to further illuminate locations where sustainability support is needed. With respect to available data, NCTA’s suggestion for a “rural rate survey to find out what rates

¹⁵ Comments of NCTA – The Internet & Television Association (“NCTA”), WC Docket No. 10-90, et al. (fil. Oct. 23, 2023), p. 4.

¹⁶ See Universal Service Monitoring Report, CC Docket No. 96-45, Data Received Through September 2022, pp. 46-47.

¹⁷ See Comments of A-CAM RLECs, WC Docket No. 10-90, et al. (fil. Oct. 23, 2023); Comments of the Legacy RLECs, WC Docket No. 10-90, et al. (fil. Oct. 23, 2023).

¹⁸ ACAM RLECs, App I, p. 76.

¹⁹ ACAM RLECs, p. 3.

rural companies are charging and how those rates compare to urban rates”²⁰ is similarly misplaced – the Commission already conducts an urban rate survey, and as it well knows, “reasonable comparability” is measured for the purposes of the High-Cost USF program by a benchmark based on that survey and that effectively pegs rural broadband rates “two standard deviations above the average urban rates for a specific set of service characteristics.”²¹ Recipients of support in turn must certify and report upon their offerings that satisfy this reasonable comparability benchmark. As a result, rates in rural areas for all consumers are by the specific operation of the Commission’s own rules slated to be higher than in urban areas, and thus the agency already has ample information on what rates follow from the USF support it provides in rural areas.

NCTA’s attempt to point to studies on the costs of fiber networks as demonstrating a lack of need for sustainability funding is misleading.²² For one, the studies they cite showing that (1) fiber networks have lower operating costs *as compared to other wireline technologies* and (2) that fiber networks have a lower incremental cost *as compared to fixed wireless networks* and are arguably therefore more efficient, are not dispositive of the *sustainability* issue at hand. Studies looking at the comparative operational costs of various technologies have nothing to do with whether those costs exist and whether they can be recovered through a certain rate benchmark. To take such a proposition from the studies NCTA points to would be akin to stating that a study

²⁰ NCTA, p. 4.

²¹ *Connect America Fund*, WC Docket No. 10-90, Report and Order, FCC 14-190 (rel. Dec. 14, 2014), ¶ 118. See also, Urban Rate Survey methodology, 2022 Urban Rate Survey – Fixed Broadband Service Methodology, p. 8. <https://www.fcc.gov/economics-analytics/industry-analysis-division/urbanrate-survey-data-resources>.

²² NCTA, p. 3 (For example, a study from the Fiber Broadband Association found that by switching from DSL to FTTH, an operator can save \$91 per year per home passed. Similarly, in a study sponsored by NTCA, Vantage Point concludes that “FTTP [Fiber to the Premises] provides high performance at a reasonable cost and very small incremental cost over the life of the network.”). Internal citations omitted.

showing electric powered vehicles have lower operational costs than gas powered vehicles somehow supports the conclusion that neither have future operational costs. Anyone who owns a car understands the absurdity of such an argument, and the Commission should as well.

Finally, with respect to WISPA's proposal for "providing support for Opex for locations where the supported entity is the only provider of broadband service,"²³ NTCA reiterates that census blocks are the ideal baseline unit for the evaluation of costs, revenues, and disaggregation calculations in the event of unsubsidized competitive presence, as some level of aggregation would aid in program administration, and because census blocks continue to provide a reasonably sized geography for such estimations. Using census blocks, the Commission should seek comment as well on an effective data-driven means of identifying and validating purported unsubsidized competition, the appropriate means of calculating disaggregation impacts, and the proper timing of such reviews. By using census blocks this analysis would be done over a geographic area large enough to accurately judge whether the would-be competitor has a substantial presence in that geography (i.e., that the competitor can effectively fulfill the mission of universal service in place of the CAF-BLS recipient as opposed to at a small subset of locations) before support is disaggregated with respect to that area.

²³ Comments of WISPA – *Broadband Without Boundaries* ("WISPA"), WC Docket No. 10-90, et al. (fil Oct. 23, 2023), pp. 3-4.

Respectfully submitted,



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