

April 3, 2024

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

RE: Ex Parte Notification: *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 Service Through the A-CAM Program*, RM-11868

Dear Ms. Dortch:

In the Order creating the Enhanced Alternative Connect America Cost Model (“A-CAM”) program, the Federal Communications Commission (the “Commission”) indicated that data with respect to the status of broadband availability and broadband serviceable locations (“BSLs”) as of the date of Enhanced A-CAM offers would be used to determine Enhanced A-CAM deployment obligations and support levels.¹ Specifically, the Order made clear that initial offer amounts would be adjusted to “reflect locations and broadband deployment that existed at the time the Enhanced A-CAM offers were made, but were not reflected in the Fabric or the National Broadband Map, and locations for which an enforceable commitment to deploy had been made prior to the Enhanced A-CAM offers but were not included in the National Broadband Funding Map.”² The Order further stated that the Commission expected the Bureau and Office of Economics and Analytics to ultimately rely on version 3 of the Fabric (which had been released several weeks earlier) and data being filed thereafter on September 15, 2023 reflecting coverage as of June 30, 2023 to make such support adjustments.³ Enhanced A-CAM offers were extended on August 30, 2023. These offers were based on version 2 of the Fabric and availability data as of December 31, 2022.⁴

¹ See *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) (“Order”).

² See Order at ¶ 43; see also *id.* at n. 223 (directing the Wireline Competition Bureau (“Bureau”) to “make a final determination regarding the requirement to serve specific locations prior to the end of 2025, using the data that best reflects location and broadband deployment at the time of the offer.”).

³ *Id.* at n. 146.

⁴ Availability reports reflecting more current data were not yet due. This is precisely why the Commission directed the Bureau to implement support adjustments.

In a January 25, 2024 Public Notice, the Bureau issued further guidance on the process by which it intended to make support adjustments.⁵ The Bureau indicated that it would use version 4 of the Fabric because that “dataset best represents the locations that existed at the time the offers were made” by incorporating bulk challenges to version 3 and data from other sources. The Bureau also indicated an intent to refer to December 31, 2023 availability data for “the relevant locations.”⁶

By this letter, the undersigned propose a methodology to implement the adjustment process addressed in the Public Notice while adhering to the overarching notion that Enhanced A-CAM support levels should be tied as closely as possible to the date of the Enhanced A-CAM offers:

1. Consistent with the Public Notice, the BSLs contained in version 4 of the Fabric, as modified to reflect subsequent successful Fabric challenges, would be used in the adjustment process.
2. To determine service availability, the Bureau would compare the June 30, 2023 availability data to version 4 of the Fabric to determine the classification of each BSL (*i.e.*, required, ILEC-only-served, ILEC-and-competitively-served or competitor-only served) as the June 30 data most closely represents availability at the time of the Enhanced A-CAM offers, would streamline the process of identifying and finalizing support adjustments and would mitigate potential upward and downward volatility in the offers.

By contrast, if December 31, 2023 data were used in all cases, an Enhanced A-CAM recipient would face the risk of being penalized with reduced support for having started quickly on its deployment obligations in the last four months of 2023 – even though those BSLs were unserved as of the date of the offers. Moreover, if December 31, 2023 data were used, a competitor that only activated service as of October 1, 2023, for example, could be erroneously construed as having offered service “at the time of the offer,” resulting in a misclassification of the relevant BSLs.

3. The undersigned recognize, however, that there will be cases in which June 30, 2023 availability data does not exist for a BSL on Fabric version 4 because that location was not recognized in the preceding version of the Fabric. Thus, in the specific instance where a BSL was added between Fabric version 3.2 and version 4, it would be appropriate in this limited circumstance to use December 31, 2023 availability data for purposes of calculating support adjustments for “the relevant locations.”

⁵ *Wireline Competition Bureau Announces Guidance Regarding Locations and Broadband Coverage for Enhanced Alternative Connect America Cost Model Mechanism*, WC Docket No. 10-90, DA 24-78, Public Notice (rel. Jan. 25, 2024).

⁶ *Id.* at 2.

Marlene H. Dortch

April 3, 2024

Page 3 of 3

Of course, if challenges have previously been lodged and are still pending with respect to any given party's June 30, 2023 availability claims, their resolution in the ordinary course of ongoing BDC challenge processes would be incorporated into the classification of each BSL for Enhanced A-CAM purposes and corresponding support adjustments. Similarly, any challenges submitted with respect to version 4 of the Fabric or to December 31, 2023 availability data for any BSL newly added therein would be resolved in the ordinary cadence of BDC challenge processes and likewise incorporated into corresponding support adjustments as further described in the Public Notice.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,

/s/ Michael R. Romano

Michael R. Romano

NTCA–The Rural Broadband Association

/s/ Genevieve Morelli

Genevieve Morelli

ACAM Broadband Coalition

/s/ Diana Eisner

Diana Eisner

B. Lynn Follansbee

USTelecom – The Broadband Association

/s/ Derrick B. Owens

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