



September 14, 2018

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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *Connect America Fund*, WC Docket No. 10-90

Dear Ms. Dortch:

On Wednesday, September 12, 2018, Mark Feest of CC Communications (Nevada); Dave Schornack of Arvig Communications (Minnesota); Jimmy Todd of Nex-Tech (Kansas); Matt Johnson of Shawnee Communications (Illinois) and Derrick Owens, Eric Keber, Bill Durdach and Gerry Duffy representing WTA – Advocates for Rural Broadband (“WTA”) met with Arielle Roth, Wireline Legal Advisor to Commissioner Michael O’Rielly, and Kagen Despain, of that office, to discuss concerns regarding the High-Cost Support budget for rural local exchange carriers (“RLECs”) and the *Order*, DA-18-710, released July 6, 2018, regarding the speed and latency performance testing framework for certain recipients of High-Cost Support.

With respect to the budget, WTA expressed the need for an early decision on pending budget revision issues and for the sufficient, stable and predictable support flows required to extend, upgrade and operate their broadband networks. Messers. Feest, Todd and Johnson, whose companies receive cost-based support, expressed particular concern that the budget control mechanisms have become operational again as of July 1, 2018. The result has already been significant reductions in the high-cost support which they would otherwise receive under the applicable Commission rules and calculations, and growing uncertainty that is disrupting their plans and efforts to deploy more broadband to their rural customers.

With respect to the performance testing framework, WTA recognizes that the Commission has a statutory duty to ensure that high-cost support is used for the purposes intended, and that recipients must offer broadband services that meet certain basic performance requirements as a condition of receiving support. The problem with the testing framework adopted in the *Order* is that it was not designed with RLECs in mind, and imposes unnecessary burdens, practical implementation difficulties and excessive costs upon them that will impair their ability to deploy and upgrade their broadband services. WTA intends to file an appeal of the *Order*, but is willing to work with the Commission and its staff to develop a practicable and reasonable performance testing framework for RLECs.

WTA indicated its understanding that much of the contemplated broadband performance testing equipment is not yet available, and may not be readily available at affordable costs for small carriers for several years. These circumstances alone would argue for postponing, at least for RLECs, the

commencement of the performance testing that is scheduled to begin during the Third and Fourth Quarters of 2019.

Even if and when affordable testing equipment becomes available, WTA noted that the *Order's* testing framework appears to have been designed predominately for price cap carriers, and needs to be revised substantially before it is viable and cost-effective for much smaller RLECs. WTA stated that the required numbers of test locations and hourly tests, plus the required testing during all four seasons and during evening hours (requiring overtime pay or complete shifts of employee work schedules to the evening), impose excessive labor and cost burdens upon RLECs. Mr. Feest indicated that his company's broadband network is being implemented with a ring architecture that provides the same speed to each customer on a ring. Consequently, he is able to test a single customer location on each ring to determine what speeds his network is actually delivering to all of the customers on the ring, and would be wasting significant time and resources testing multiple locations on each ring.

The WTA members stressed the difficulties of reaching rural customers and getting them to agree to allow testing of their broadband service for federal government purposes. Messers. Schornack, Feest and Johnson detailed how difficult and time-consuming it is for their RLECs to contact customers and arrange for permission and appointments to come to their homes to install or upgrade actual services that the customers want. Mr. Feest stated that his company needs to use customer service representatives on a full time, 40-hours-per-week basis to track down customers and schedule installations when it adds or upgrades services in a new area. Getting 50 rural customers per broadband service tier to agree to allow RLEC employees to come to their homes to install testing equipment and then to participate in broadband performance testing that they care little about (or may even oppose) is going to be a major undertaking for many RLECs. And even if a company can get enough customers to agree to take part in the first rounds of testing, obtaining new testing samples every two years is likely to stretch the limits of possibility.

WTA noted that its request that performance testing be limited to each covered RLEC's own network – where it can exercise control over speed and latency – was rejected in the *Order*. WTA reiterated that it is unfair to penalize RLECs with loss of high-cost support for middle mile and consumer premises equipment (“CPE”) problems that are outside their control and that adversely impact speed and latency. The WTA members noted that cost-based RLECs receive no middle mile support (and it is unclear how much, if any, middle mile costs are included in model-based support), and that the quality of middle mile service varies significantly. Mr. Todd stated that some carriers have access to state or regional fiber networks, while others have only one middle mile service provider available and no ability to negotiate the price or quality thereof. And regardless of the quality of the middle mile service they can obtain, RLECs have no control over how their broadband traffic is routed or what fiber cuts or outages, bottlenecks or congestion might delay it once they hand it off to the initial middle mile service provider.

Similar uncertainties and uncontrollable circumstances affect CPE. Mr. Todd noted that some customers lease their home WiFi routers from their RLEC while others buy varying types and qualities of CPE from a variety of vendors. RLECs have no control over the nature and quality of much of the CPE that their customers purchase and use. Mr. Todd estimated that 95 percent of trouble calls to RLECs regarding broadband service problems and outages are found to be caused by defects in or failures to maintain or update CPE. However, there is often very little that RLECs can do about CPE problems beyond explaining the reason for the problem and advising the customer to upgrade his or her CPE. In addition, customers can slow their broadband service speeds and latency by connecting too many devices to their WiFi router.

WTA recognizes that the *Order* approves the use of financial incentives (such as a period of free service) to try to get rural customers to agree to participate in performance testing. These incentives may or may not have some value in obtaining test participants. However, they constitute an additional testing cost piled on top of costs including, but not limited to, new testing equipment and licenses, modifications to existing network equipment to accommodate testing equipment and software, the hiring and training of additional employees (Mr. Feest estimated that he would have to hire at least two new employees to negotiate, schedule and conduct the contemplated testing), evening overtime pay, truck rolls to rural test households, installation and removal of equipment inside customer households, handling of customer negotiations and complaints, compilation and reporting of test data, and increased middle mile costs. WTA has long asserted that the imposition of additional regulatory and reporting costs upon RLECs reduces dollar-for-dollar the amount of net high-cost support available to upgrade and operate their broadband networks. In the case of the contemplated performance testing framework, these potential adverse net impacts appear to be very substantial.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceedings.

Respectfully submitted,

/s/ Gerard J. Duffy

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