

With regard to others' initial comments on the *FNPRM*, we note that a range of commenters agree with the Commission's proposal that the remaining CAF Phase I Incremental Support from 2012, as well as the Incremental Support allocated for 2013, should be dedicated toward a modified CAF Phase I Incremental Support program through which price cap carriers expeditiously can deploy broadband to unserved consumers.⁴ Other commenters have opined that the \$185 million remaining in 2012 Incremental Support and/or the Incremental Support already set aside for 2013 by the *Comprehensive Reform Order*⁵ should be made available to entities other than price cap carriers and/or rededicated to other programs.⁶ None of those commenters' arguments should prevent the Commission from maintaining the policy decisions made in the *USF/ICC Transformation Order* and promptly approving program modifications supported by the Coalition that would permit price cap carriers to build out to many Americans that lack access to robust broadband.

⁴ See *FNPRM* at ¶ 8. See also Comments of ADTRAN, Inc., WC Docket No. 10-90, at 4 (filed Jan. 28, 2013) ("Broadband deployment . . . is far too important to our nation's future for the Commission to simply hit "pause" after the first round of CAF Phase I and leave a void in support for deployment while awaiting CAF Phase II"); Comments of the National Rural Electric Cooperative Association, WC Docket No. 10-90, at 2-3 (filed Jan. 28, 2013) ("shifting funds from Phase I to Phase II does not seem a very good way to incentivize broadband deployment today").

⁵ See *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, at ¶ 148 (2011) ("*USF/ICC Transformation Order*").

⁶ See, e.g., Comments of the Competitive Carriers Association, WC Docket No. 10-90, at 4-5 (filed Jan. 28, 2013) (the Commission should allocate the remaining 2012 funding to CAF Phase II and make CAF Phase II more accessible to competitive carriers); Comments of Mediacom, WC Docket No. 10-90, at 3-4 (filed Jan. 28, 2013) (any new CAF funding should be allocated using competitive bidding); Comments of Mescalero Apache Telecom, WC Docket No. 10-90, at 7-8 (filed Jan. 28, 2013) (the 2012 support should go toward deployment in Tribal areas); Comments of the National Cable & Telecommunications Association, WC Docket No. 10-90, at 4-5 (filed Jan. 28, 2013) (the Commission should open up CAF Phase I support to competitive bidding); Comments of ViaSat, WC Docket No. 10-90, at 10 (filed Jan. 28, 2013) (the Commission should revamp CAF to be a market-based competitively neutral process, or else divert remaining funding to the Remote Areas Fund); Comments of the Wireless Internet Service Providers Association, WC Docket No. 10-90, at 3 (filed Jan. 28, 2013) (the Commission should apply declined CAF Phase I funds to the Remote Areas Fund).

As we have noted previously,⁷ the fact that CAF Phase I Incremental Support from 2012 remains unclaimed does not demonstrate a lack of need for support to boost broadband deployment in areas served by price cap carriers, nor does it indicate a lack of desire among price cap carriers to serve consumers in their areas. In price cap service areas there remain millions of unserved customer locations, particularly in areas where deployment costs are high and subscriber density is low. They lack broadband because the Universal Service Fund high-cost program has not provided adequate support to make the areas economic to serve. The Commission, recognizing that areas served by price cap carriers traditionally have been underfunded relative to similar areas served by rate-of-return carriers,⁸ created CAF Phase I Incremental Support “to spur immediate broadband buildout” in these areas.⁹ As evidenced by the thousands of unserved customers who have contacted their carriers, the Commission, members of Congress, or state commissions to express their frustration at being unable to take advantage of the well-known benefits of broadband, there is an overwhelming need for expeditious broadband deployment that CAF Phase I Incremental Support is intended to provide.

The reason that approximately \$185 million of CAF Phase I Incremental Support remains unclaimed from 2012 is not because it is not needed, but because the existing rules of the program—including insufficient support levels in many cases, an overly restrictive definition of “unserved” areas eligible for support, overly generous allowances for areas considered to be

⁷ See, e.g., Coalition Comments at 5-7; Reply Comments of Windstream Corporation in Support of Its Petition for Waiver, WC Docket Nos. 10-90, 05-337 (filed Sept. 10, 2012).

⁸ *Comprehensive Reform Order* at ¶ 128 n.201 (emphasizing the need to begin “closing the rural-rural divide”); ¶ 130 (noting that price cap companies “serve more than 83 percent of the people that lack broadband, many of whom live in areas that are just as low-density and remote as areas served by rural companies”); ¶ 158 (stating that more than 83 percent of unserved locations are in price cap areas, yet such areas receive just 25 percent of high-cost support). See also *FNPRM* at ¶ 1.

⁹ *Id.* at ¶ 22.

served by unsubsidized competitors, and a lack of clarity surrounding service obligations—made it impossible for many price cap carriers to accept some or all of their allocated support.

Contrary to the assertions of some commenters,¹⁰ there is a broad consensus among price cap carriers as to the shortcomings of the existing program, which has led the Coalition to submit joint comments supporting the Commission’s proposed modifications and elaborating on those proposals to provide the basis of a CAF Phase I Incremental Support program that can be put into action right now.

We urge the Commission to quickly adopt a program structure that will enable price cap carriers to use designated funding to advance the Commission’s statutory mission.¹¹ As noted in our comments, fundamental elements of this structure would include (1) expansion of the definition of unserved areas to include any census block that lacks access to 4 Mbps/1 Mbps service, including the use of a proxy that is properly reflective of the presence of 4/1 service; (2) a reasonable process for challenging the status of areas where price cap carriers intend to use support; (3) an option for carriers to satisfy their build-out obligations with second-mile fiber deployments; and (4) redistribution of any remaining funds that a price cap carrier elects not to accept after these changes to program structure to other price cap carriers with demonstrated needs for such funds.

In addition to these modifications, the Coalition urges the Commission to clarify all of the service obligations associated with any additional round of Incremental Support before it requires price cap carriers to elect whether to accept the offered support amounts. As the

¹⁰ See Comments of the American Cable Association, WC Docket No. 10-90, at 6 (filed Jan. 28, 2013); Comments of Mediacom at 14.

¹¹ See 47 U.S.C. § 1302(b) (requiring the Commission to “take immediate action to accelerate the deployment of” broadband).

Coalition and several of its members have stated previously,¹² imposing obligations retroactively could materially alter a carrier's business case that made its acceptance of Incremental Support possible. Moreover, it is crucial that any broadband service that excludes an area from CAF Phase I eligibility satisfies the obligations that the Commission places on CAF Phase I funding recipients. For these reasons, the Coalition respectfully requests that the Commission either resolve these issues in its order modifying the current Incremental Support requirements or declare that such recipients shall not be subject to any requirement that is undefined¹³ or not in effect as of the date that a price cap carrier must elect whether to participate.

¹² *See, e.g.*, AT&T Comments, WC Docket No. 10-90, CC Docket No. 05-337, at 3-10 (filed Aug. 24, 2012) (detailing a number of open issues associated with incremental support obligations).

¹³ *See, e.g. id.* (identifying undefined incremental support service obligations).

Respectfully submitted,

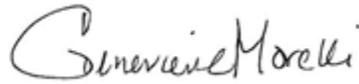
By:



David Cohen
Jonathan Banks
607 14th Street, N.W.
Suite 400
Washington, DC 20005
(202) 326-7300

*Attorneys for the United States Telecom
Association*

By:



Genevieve Morelli
Micah M. Caldwell
1101 Vermont Avenue, NW
Suite 501
Washington, DC 20005
(202) 898-1519

*Attorneys for the Independent Telephone &
Telecommunications Alliance*

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