

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Inquiry Concerning Deployment of)	GN Docket No. 17-199
Advanced Telecommunications)	
Capability to All Americans in a)	
Reasonable and Timely Fashion)	
)	

**COMMENTS OF
ITTA – THE VOICE OF AMERICA’S BROADBAND PROVIDERS**

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ITTA – The Voice of America’s Broadband Providers (ITTA) hereby submits its comments in response to the *NOI* initiating the next annual assessment of the “availability of advanced telecommunications capability to all Americans in a reasonable and timely fashion.”¹

I. INTRODUCTION AND SUMMARY

This Section 706 inquiry comes amidst a time of some uncertainty regarding next steps for deploying fixed broadband to unserved areas. While the Commission this year has taken concrete steps towards conducting the Connect America Phase II auction for unserved areas in price cap carrier territories, the Remote Areas Fund, which will provide support for deployment in the costliest price cap areas to serve, is well over a year away, and questions linger whether it will be adequately funded. The Commission received a very successful response to its offer of model-based support for rate-of-return carriers, but deployment promoted by the A-CAM plan will only be maximized if the Commission allocates sufficient funding for that plan. Legacy rate-of-return carriers are currently suffering the effects of curtailed funding pursuant to the

¹ *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, Thirteenth Section 706 Report Notice of Inquiry, FCC 17-109 (Aug. 8, 2017) (*NOI*); see 47 U.S.C. § 1302 (codifying, within Title 47 of the United States Code, Section 706 of the Telecommunications Act of 1996 (1996 Act)).

budget control mechanism. Potential relief through Congressional action to promote broadband and other infrastructure investment now appears to be a distant prospect.

It is against this backdrop that the Commission has honored its statutory duty to commence an inquiry into the state of availability of advanced telecommunications capability to all Americans. The Commission's universal service high-cost program funding limit has been frozen for six years. As described above, funding needs to catch up to facilitate fruition of broadband deployment obligations that already are contemplated. While aggressive speed goals are laudable, now is not the time to raise the stakes by reinterpreting what speed benchmark constitutes "advanced telecommunications capability."

The Commission should maintain the current speed benchmark of 25 Mbps download and 3 Mbps upload (25/3 Mbps) for fixed broadband, insofar as it enables truly "advanced" telecommunications capability. The Commission also should continue to evaluate broadband deployment based on the presence of both fixed and mobile services, and continue to conduct its Section 706 inquiries utilizing Form 477 data to evaluate fixed broadband deployment. With those parameters, in light of the continual lag of broadband deployment in rural areas, the Commission should find that advanced telecommunications capability is not being deployed in a reasonable and timely fashion to all Americans. Such a finding will necessitate that the Commission take immediate action to accelerate broadband deployment, and one method that the statute requires is that the Commission remove barriers to infrastructure investment. The Commission should do so by allocating additional, sufficient funds to its universal service high-cost program, particularly addressing in the near-term the shortfall in funding both for model-based and legacy rate-of-return support mechanisms.

II. THE COMMISSION SHOULD MAINTAIN THE 25/3 Mbps SPEED BENCHMARK FOR FIXED BROADBAND

In the *NOI*, the Commission proposes to continue use of a specific speed benchmark to evaluate advanced telecommunications capability, with such benchmark remaining the current 25/3 Mbps for fixed broadband.² ITTA supports these proposals.

Retaining the 25/3 Mbps benchmark will better align Commission policies and practices. 25/3 Mbps is the “baseline” performance tier for the Connect America Phase II (CAF II) auction,³ and it also constitutes a significant component of the speed deployment commitment for rate-of-return carriers electing model-based support.⁴ It was confusing when, barely one month after establishing 10 Mbps download and 1 Mbps upload (10/1 Mbps) as the speed threshold for price cap carriers to accept a state-level commitment for model-based funding for broadband deployment,⁵ the Commission declared 25/3 Mbps to be the speed benchmark for evaluating whether advanced telecommunications capability is being deployed in a reasonable and timely manner.⁶ With 25/3 Mbps routinely having been used as a benchmark for fixed

² See *id.* at 5, 6, paras. 12, 13.

³ See *Connect America Fund; ETC Annual Reports and Certifications*, Report and Order and Order on Reconsideration, 32 FCC Rcd 1624, 1626, para. 10 (2017) (*CAF II Weights Order*).

⁴ See *Connect America Fund; ETC Annual Reports and Certifications; Developing a Unified Intercarrier Compensation Regime*, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3097-98, para. 25 (2016) (*Rate-of-Return Reform Order*).

⁵ See *Connect America Fund; ETC Annual Reports and Certifications; Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Obsolete ILEC Regulatory Obligations that Inhibit Deployment of Next-Generation Networks*, Report and Order, 29 FCC Rcd 15644, 15649, para. 15 (2014) (*December 2014 Connect America Order*).

⁶ See *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment, 30 FCC Rcd 1375, 1403-08, paras. 45-55 (2015) (*2015 Broadband Progress Report*).

broadband in the universal service context, raising the benchmark to a new level would revive confusion.

This would be particularly unnecessary because 25/3 Mbps broadband continues to enable myriad truly advanced features, functions and applications. In establishing the 25/3 Mbps benchmark, the Commission found that availability of advanced telecommunications capability necessitated access to broadband services capable of providing that throughput in order to accommodate demand, for example, for online video services, high definition (HD) video streaming, video chat, and online gaming.⁷ As the Commission concluded last year, 25/3 Mbps “continues to provide consumers with the capacity necessary to utilize ‘advanced’ services that ‘enable[] users to originate and receive high-quality voice, data, graphics, and video telecommunications.’”⁸ Furthermore, the Commission found that a 25 Mbps fixed broadband download speed threshold “remains sufficient to ensure that a household can access a range of bandwidth intensive services, including HD video streaming, simultaneously over multiple devices,” and “services offering 3 Mbps upload speed continue to support advanced broadband services including HD video calling, virtual private network (VPN) platforms, telemedicine, and distance learning applications.”⁹

The calculus remains the same today. Section 706’s definition of “advanced telecommunications capability” to encompass “high-quality” telecommunications does not require a failing grade if the broadband service is not capable of providing each and every new

⁷ See *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 2016 Broadband Progress Report, 31 FCC Rcd 699, 721, 722, paras. 49, 53 nn.165, 176 (2016) (2016 Broadband Progress Report) (citing 2015 Broadband Progress Report, 30 FCC Rcd at 1394, 1399-1401, paras. 27, 37-40).

⁸ *Id.* at 722, para. 52 (citing 47 U.S.C. § 1302).

⁹ *Id.* at 722-23, para. 54.

function and application to reach the market. Nor does it command an assessment of whether the “most” advanced telecommunications capability is being deployed on a reasonable and timely basis.¹⁰ By any reasonable account, the features, functions, and applications enabled by 25/3 Mbps broadband still qualify as “advanced” and “high-quality.”

There are also pragmatic reasons why the Commission should retain 25/3 Mbps as the benchmark. As an analytical matter, because 25/3 Mbps was the benchmark in the 2015 and 2016 *Broadband Progress Reports*, maintaining it as such in the context of the current inquiry provides the best vehicle for truly evaluating the progress of broadband deployment.¹¹ If the Commission were to change the benchmark every few years, it would no longer provide the reference point that is the essence of a “benchmark.” Of course, this is not to suggest that the definition of what constitutes “advanced” remain static for undue years merely for the sake of longitudinal analysis. However, given that the current 25/3 Mbps benchmark still qualifies as “advanced” and “high-quality” by any reasonable account, maintaining that benchmark will assist the Commission in fulfilling its statutory obligation to “determine” whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion.

In addition, as a matter of policy, especially in light of the myriad advanced functionalities enabled by 25/3 Mbps broadband service, the Commission should maintain that benchmark as an ambitious deployment target for the millions of Americans who remain unserved by advanced telecommunications capability. As ITTA has emphasized before, in an

¹⁰ *Cf. NOI* at 8-9, para. 25 (stating that the Commission “could” set the benchmark at a speed “that would allow Americans to use, with full functionality, the leading voice, data, graphics, and video telecommunications services”). Notably, the Commission does not assert that it is *required* to set the benchmark to assess whether Americans have “full functionality” of the “leading” telecommunications capabilities.

¹¹ *See id.* at 9-10, para. 30 (proposing to measure whether advanced telecommunications capability is being deployed by evaluating progress).

environment of finite funding for broadband deployment, the Commission’s primary policy underlying its efforts to promote broadband deployment should be to maximize the coverage breadth of a good broadband service.¹² There already is much more demand for funding for broadband in high-cost areas than the Commission heretofore has provided.¹³ In light of that, in furtherance of the principle “to connect the maximum number of people with the limited dollars available under [the Commission’s] budget,” the Commission “should buy fewer Lamborghinis and more Chevys.”¹⁴

III. THE COMMISSION SHOULD EVALUATE BROADBAND DEPLOYMENT BASED ON THE PRESENCE OF BOTH FIXED AND MOBILE SERVICES

The *NOI* seeks comment on whether the Commission should evaluate the deployment of fixed and mobile broadband as separate and distinct ways to achieve advanced telecommunications capability, or whether it should evaluate the deployment of advanced

¹² See ITTA Comments, WC Docket Nos. 10-90, 14-58, and 14-259, at 2-4 (July 21, 2016) (ITTA CAF II Weights Comments); see also *December 2014 Connect America Order*, 29 FCC Rcd at 15649-50, para. 17 (“Our objective with high-cost support is to extend broadband-capable infrastructure to as many high-cost locations as efficiently as possible, and at the same time ensure that we are best utilizing the funds that consumers and businesses pay into the universal service system.”); *Rate-of-Return Reform Order*, 31 FCC Rcd at 3132, para. 120 (in order to utilize available universal service funds “to extend broadband to high-cost and rural areas where the marketplace alone does not currently provide a minimum level of broadband connectivity, the Commission has emphasized its desire to ‘distribute universal funds as efficiently and effectively as possible’” (quoting *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17673, para. 20 (2011) (*USF/ICC Transformation Order*))); Commissioner Michael O’Rielly, Federal Broadband Infrastructure Spending: Potential Pitfalls (Feb. 1, 2017), <https://www.fcc.gov/news-events/blog/2017/02/01/federal-broadband-infrastructure-spending-potential-pitfalls> (Commissioner O’Rielly Broadband Infrastructure Blog) (“focusing on artificial speeds diverts attention and resources from establishing service to those lacking any broadband service. . . . [W]e should strive to ensure that broadband of a realistic speed and quality is available for as many as possible, knowing it will be far exceeded in most circumstances.”).

¹³ See, e.g., Commissioner O’Rielly Broadband Infrastructure Blog.

¹⁴ ITTA CAF II Weights Comments at 8 (quoting *Connect America Fund*; *ETC Annual Reports and Certifications*; *Rural Broadband Experiments*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6111, Statement of Commissioner Michael O’Rielly Approving in Part and Dissenting in Part (2016) (*CAF II Auction Order*)).

telecommunications capability based on the presence of both fixed and mobile services. ITTA supports the latter formulation, which accords with the Commission’s finding last year in the *2016 Broadband Progress Report*.

As the Commission elaborated there:

We find today that the availability of advanced telecommunications capability requires access to both fixed and mobile services. This understanding of advanced telecommunications capability more accurately reflects consumer needs in today’s society. For example, consumers use *fixed* broadband service for high capacity home use, including streaming high definition (HD) video, uploading large files and certain web services, but also increasingly rely on *mobile* broadband services for activities like navigation, communicating with family and friends and on social media, and receiving timely news updates away from home. . . . We recognize that fixed and mobile services can provide some similar functionalities in certain applications and circumstances. This does not, however, change the inherent differences in key capabilities provided by the two services.¹⁵

These same rationales apply just as much now as they did last year.

Indeed, in the *NOI* itself, the Commission expressed its belief that recognizing a distinction between the capabilities of fixed and mobile advanced telecommunications is appropriate.¹⁶ The consequence of this distinction is that nowadays the combination of those capabilities and functionalities is necessary to realize the “availability of advanced telecommunications capability.”¹⁷ This is not so because different technologies are being utilized;¹⁸ rather, it is because neither fixed nor mobile broadband offers a full suite of capabilities. As the Commission has explained, “the technologically neutral language used by Congress to frame section 706 requires the Commission to focus on end-user functionality in lieu of the particular transmission media used by a service. Although fixed and mobile broadband

¹⁵ *2016 Broadband Progress Report*, 32 FCC Rcd at 701, para. 2.

¹⁶ *See NOI* at 3 para. 5.

¹⁷ *See 2016 Broadband Progress Report*, 32 FCC Rcd at 708-19, paras. 20-44 (thorough discussion of why consumers require access to both services).

¹⁸ *Cf.* 47 U.S.C. § 1302(d)(1) (defining advanced telecommunications capability “without regard to any transmission media or technology”).

may utilize different network technologies, the salient differences between the two service types are found not in their technological differences, but in the distinct capabilities that they provide consumers.”¹⁹

In sum, the Commission should stay the course it established just last year, and continue to find that advanced telecommunications capability requires access to both fixed and mobile services.

IV. BROADBAND IS NOT BEING DEPLOYED IN A REASONABLE AND TIMELY MANNER TO ALL AMERICANS

A. The Degree of the Continued Disparity of Broadband Deployment Between Urban and Rural Areas Commands a Conclusion that Not All Americans Have Advanced Telecommunications Capability Available to Them

Section 706 requires the Commission to determine via regular inquiries “whether advanced telecommunications capability is being deployed *to all Americans* in a reasonable and timely fashion.”²⁰ In 2009, Congress reiterated that the national broadband plan it directed the Commission to develop was to ensure that “all people of the United States” have access to broadband capability.²¹ In the context of measuring whether advanced telecommunications capability is being deployed to all Americans, the *NOI* seeks comment on how the Commission should treat the disparity between the availability of advanced telecommunications capability in urban areas and the availability of such services in rural areas.²² The *NOI* reports that, based upon June 2016 FCC Form 477 data, fixed broadband with speeds of at least 25/3 Mbps has been deployed to approximately 98 percent of Americans in urban areas, and only 72 percent of

¹⁹ *2016 Broadband Progress Report*, 32 FCC Rcd at 718, para. 43.

²⁰ 47 U.S.C. § 1302(b) (emphasis added).

²¹ American Recovery and Reinvestment Act of 2009, Pub.L. No. 111-5, § (6001)(k)(2)(D), 123 Stat. 115, 516 (2009).

²² *See NOI* at 10, para. 31.

Americans in rural areas.²³ Based on these figures and the statutory mandate that the Commission assess whether advanced telecommunications capability is being deployed “to all Americans,” ITTA believes that the only reasonable conclusion is that advanced telecommunications capability is *not* being deployed to all Americans in a reasonable and timely fashion.²⁴

It has been over 21 years since “all Americans” was a broadband deployment benchmark enshrined in law, and over eight years since Congress reiterated the policy goal that no person of the United States should be stranded on the wrong side of the digital divide. Therefore, as a threshold matter, “to all Americans” means what a plain language reading of it elicits. Subsequent Commission pronouncements have repeatedly echoed this formulation. For instance, in the National Broadband Plan, the Commission established as the “National Broadband Availability Target” that “[e]very household and business location in America should have access to affordable broadband service.”²⁵ In the first address of his chairmanship, Chairman Pai twice invoked the goal: “[O]ne of this agency’s top priorities [is] bringing broadband to all Americans. . . . We must work to bring the benefits of the digital age to all Americans.”²⁶

Reflecting on this address, Chairman Pai later elaborated:

Since my first day as Chairman of the FCC, I’ve said repeatedly that my number one priority is closing the digital divide and bringing the benefits of the Internet age to all Americans.

²³ *See id.* at 12, para. 41.

²⁴ This conclusion also relies on the assumptions discussed above, that the proper speed benchmark for fixed broadband should remain at 25/3 Mbps, and that advanced telecommunications capability requires access to both fixed and mobile services.

²⁵ FCC, Connecting America: The National Broadband Plan at 135 (Mar. 17, 2010), <https://www.fcc.gov/general/national-broadband-plan> (National Broadband Plan).

²⁶ Ajit Pai, Chairman, Fed. Communications Comm’n, Remarks to Federal Communications Commission 1-2 (Jan. 24, 2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-343184A1.pdf.

The FCC’s founding statute charges my agency with making communications services, “available, so far as possible, to all the people of the United States.” Communications for all—which in 2017 means Broadband for All—is the main reason my agency exists.

That’s what the law says. But here’s what I believe: Every American who wants to participate in our digital economy should be able to do so. Access to online opportunity shouldn’t depend on who you are or where you’re from.²⁷

And just last week, Chairman Pai reiterated that “the FCC’s central mission under my chairmanship . . . [is] extending digital opportunity to *every* American.”²⁸

One need look no further than the Commission itself for the conspicuous recognition that advanced telecommunications capability is not being deployed in a reasonable and timely fashion to all Americans, especially Americans in rural areas. For example, in last year’s *Rate-of-Return Reform Order*, the Commission flatly acknowledged that “millions of rural Americans remain unserved.”²⁹ In numerous letters to Congress just this summer, Chairman Pai has lamented the state of broadband deployment in rural America,³⁰ and he has plainly recognized

²⁷ Remarks of FCC Chairman Ajit Pai at “Broadband for All” Seminar 2 (June 26, 2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-345512A1.pdf.

²⁸ Remarks of FCC Chairman Ajit Pai at the Symposium on “The Future of Speech Online” 3 (Sept. 15, 2017), http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0915/DOC-346747A1.pdf (emphasis added).

²⁹ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3089, para. 2. See also, e.g., *Connect America Fund; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd at 2152, 2153, para. 1 (“Despite the growing expansion of 4G [LTE] service, rural and high-cost areas of our country have been left behind.”); National Broadband Plan at 22 (“As with fixed broadband, most areas without mobile broadband coverage are in rural or remote areas.”).

³⁰ See, e.g., Letter from Chairman Pai to Senator Jerry Moran (July 18, 2017) (characterizing the fact that over one-quarter of rural Americans lack access to fixed high-speed broadband at home as “unacceptable,” and stating that “all Americans should have the opportunity to participate in the digital economy—that’s why bridging the digital divide is the FCC’s top priority”); Letter from Chairman Pai to Congressman Sam Graves (July 18, 2017) (“my highest priority [is] making sure every American who wants Internet access can get it . . . [but] if you live in rural America, there’s a better than 1-in-4 chance that you lack access to fixed high-speed broadband at home The bottom line is this: Rural Americans deserve the same digital access as those living in more urban areas.”); Letter from Chairman Pai to Senator Roy Blount (June 16, 2017) (“The business case for stand-alone broadband [previously] didn’t exist for some rural telephone

(continued...)

that broadband “just isn’t available” to over one-quarter of rural Americans.³¹ Other Commissioners have similarly professed that the situation is untenable.³²

As cited above, fixed broadband with speeds meeting the Commission’s benchmark has been deployed to merely 72 percent of Americans in rural areas. A C- grade in broadband deployment over twenty years after enactment of Section 706 is neither “reasonable” nor “timely.” Rural Americans need and deserve better. The Commission should find that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion.

B. The Commission Should Continue to Use Form 477 Data to Inform Its Section 706 Inquiries

The *NOI* seeks comment on whether the Commission should continue to use a Form 477 deployment data census block approach to calculate the deployment of fixed advanced

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companies I wish I could tell you that the FCC has fixed this problem. But as your letter rightly points out, we have not. . . . [I]f the [*Rate-of-Return Reform*] *Order* is not carrying out its stated purpose of advancing broadband deployment in rural America, we cannot ignore that problem—for time is not on the side of rural Americans.”).

³¹ Remarks of FCC Chairman Ajit Pai at the Institute for Policy Innovation’s Hatton W. Sumners Distinguished Lecture Series 3 (Sept. 7, 2017), http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0907/DOC-346600A1.pdf (“Overall, 28% of rural Americans couldn’t sign up for high-speed home broadband if they wanted to. It just isn’t available.”).

³² *See, e.g.*, Mignon Clyburn, Commissioner, Fed. Communications Comm’n, Remarks at Appalachian Ohio-West Virginia Connectivity Summit 2 (July 18, 2017), https://apps.fcc.gov/edocs_public/attachmatch/DOC-345873A1.pdf (“On broadband deployment, we have acknowledged that we have a problem, and that is a critical first step. It is unacceptable . . . that over 20% of rural Americans . . . do not have high speed broadband.”); Commissioner O’Rielly Broadband Infrastructure Blog (“Sadly, I have visited parts of America that are without *any* option for broadband service.”); *CAF II Auction Order*, 31 FCC Rcd at 6108, Statement of Commissioner Jessica Rosenworcel (stating need for the Commission to quickly establish the Remote Areas Fund and continue its work “to make sure our universal service policies do not leave rural America behind”).

telecommunications capability, and then use the change in this data across time as part of its Section 706 inquiries.³³ ITTA believes the Commission should do so.

As the *NOI* recounts, for the *2016 Broadband Progress Report*, the Commission determined the deployment of fixed advanced telecommunications capability by analyzing Form 477 deployment data. Thus, continuing to utilize Form 477 data presents the analytical advantage of enabling longitudinal comparisons. In addition, the State Broadband Initiative (SBI) data relied upon by the Commission to inform prior Section 706 reports³⁴ is no longer being kept current.³⁵ While Form 477 data may not be perfect,³⁶ it is still the “best information available” for fixed broadband services.³⁷ And, notably, as discussed above, the Commission is actively in the midst of revamping its Form 477 data collection.

V. THE COMMISSION MUST TAKE IMMEDIATE ACTION TO ACCELERATE BROADBAND DEPLOYMENT

Section 706 requires that if the Commission finds that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion, it “shall take immediate action to accelerate deployment of such capability by removing barriers to infrastructure investment and by promoting competition in the telecommunications market.”³⁸

³³ See *NOI* at 12-13, para. 41.

³⁴ See *id.* at 12, para. 41 n.63.

³⁵ See, e.g., NTIA, Broadband Technology Opportunities Program (BTOP) Quarterly Program Status Report at 3 (2017), https://www.ntia.doc.gov/files/ntia/publications/ntia_btop_33rd_qtrly_report.pdf (as of March 31, 2017, “the SBI program recipients, which consists of the State Broadband Data and Development Program and the National Broadband Map, have successfully closed out all 56 projects”).

³⁶ See, e.g., *NOI* at 12-13, para. 41 n.65; *2016 Broadband Progress Report*, 31 FCC Rcd at 730, para. 75 n.234.

³⁷ *2016 Broadband Progress Report*, 31 FCC Rcd at 730, para. 75.

³⁸ 47 U.S.C. § 1302(b).

Bolstered by what should be a negative Section 706 finding, the Commission will be required to take such action.

The *USF/ICC Transformation Order* established a six-year period for the high-cost program budget to not exceed \$4.5 billion.³⁹ That six-year period expires at the end of this year, but the high-cost program contribution burden still will not exceed \$4.5 billion per year absent further action by the Commission.⁴⁰ Meanwhile, A-CAM plan broadband deployment obligations will only be fully realized if the Commission authorizes the full \$200 per location funding amount,⁴¹ and rate-of-return carriers receiving support pursuant to legacy funding mechanisms are hamstrung from fulfilling their broadband deployment plans due to funding shortfalls resulting from the budget control mechanism.

The Commission should get a head start on taking the action mandated by Section 706 by allocating increased funding both to model-based and legacy rate-of-return broadband deployment support mechanisms. This action is warranted to meet the immediate needs of these funding mechanisms. While not a simple task, and while the Commission may need to reevaluate and reset the high-cost program budget holistically in multiple steps, expeditiously addressing these funding needs will satisfy both the statutory requirements of Section 706 as well as its policy underpinnings.

VI. CONCLUSION

The Commission should stay the course it followed in formulating the *2016 Broadband Progress Report*, conducting its analysis utilizing Form 477 data and a 25/3 Mbps speed benchmark, and regarding advanced telecommunications capability to entail the availability of

³⁹ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17710-12, paras. 123-26.

⁴⁰ See, e.g., *id.* at 17712, para. 126.

⁴¹ See *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 13775, 13779, para. 12 (2016).

both fixed and mobile broadband service. With these parameters, the rate of broadband deployment in rural areas still militates towards the conclusion that advanced telecommunications capability is *not* being deployed to all Americans in a reasonable and timely fashion, a conclusion that has been bolstered consistently by the Commission's pronouncements in other contexts about the state of rural broadband deployment. In order to satisfy the resulting statutory requirement that it take immediate action to accelerate broadband deployment, the Commission should allocate increased funding both to model-based and legacy rate-of-return broadband deployment support mechanisms, in the course of holistically reevaluating the high-cost program budget.

Respectfully submitted,

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