

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Northeast Iowa Telephone Company and Western Iowa Telephone Association, Petition for Declaratory Ruling)	
)	
)	

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

ITTA – The Voice of America’s Broadband Providers (ITTA) hereby submits these comments in support of the Petition filed by several Iowa companies in the above-referenced proceeding.¹ The Petition requests clarification or a declaratory ruling that “home-based businesses that are registered with a State or other governmental entity and are located in eligible census blocks are considered locations and do not require separate subscriptions or facilities to count as such.”² The relief that Petitioners request comports with Commission precedent and policies underlying the provision of high-cost universal service support, and would constitute an equitable result. The Petition should be granted.

The Petition specifically requests that the Commission address discrepancies between Commission rules and releases defining the scope of “locations” for purposes of fulfilling Alternative Connect America Cost Model (A-CAM) deployment obligations, and the following

¹ Petition for Clarification or Declaratory Ruling on the Definition of Location for Home Offices Under the Connect America Fund-Alternative Connect America Cost Model, WC Docket No. 10-90 (filed May 6, 2019) (Petition); *see Comments Sought on Petition for Declaratory Ruling of Northeast Iowa Telephone Company and Western Iowa Telephone Association*, Public Notice, DA 15-579 (WCB June 20, 2019).

² Petition at 2.

contradictory guidance issued by the Universal Service Administrative Company (USAC), the federal Universal Service Fund administrator: “For a carrier to count a business run out of a house or a business run out of a barn, shed, or other structure on the property, there must be *separate facilities* (drop/line) and separate equipment (e.g., modem) and the business *must separately subscribe* (get its own bill) to at least the minimum speed required.”³ ITTA concurs with the Petition that the USAC guidance is over inclusive in two fundamental respects.

First, the Commission consistently has maintained that broadband service is available, i.e., the location counts towards fulfillment of deployment obligations, if the carrier could provide qualifying broadband service to the location “within ten (10) business days upon request.”⁴ Requiring that the business *already* have separately subscribed in order to be counted separately from the residence goes far beyond the Commission’s broadband service availability definition. It also is unreasonable. As Petitioners rightfully contend, the policy that an A-CAM support recipient only needs to *offer* qualifying broadband service to the defined number of eligible locations makes sense, because the support recipient has no control over whether the resident or business actually chooses to subscribe to its broadband service.⁵ Indeed, in adopting the A-CAM program, the Commission specifically stated that it was reforming its rate-of-return universal service mechanisms to fulfill its statutory mandate of ensuring that all consumers “have *access to* . . . advanced telecommunications and information services.”⁶

³ *Id.* at 4 (quoting USAC HUBB FAQs at 3, Petition Exh. 2) (emphases added).

⁴ *See id.* at 3-4 (quoting, e.g., *Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations*, Public Notice, 31 FCC Rcd 12900, 12903 (WCB 2016)).

⁵ *See id.* at 3.

⁶ *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, 3089, para. 1 (2016) (*Rate-of-Return Reform Order*) (quoting 47 U.S.C. § 254(b)(3)) (emphasis added). *See also, e.g.*, 47 U.S.C. § 254(b)(1),(2) (universal service principles that quality services should be “available” at

(continued...)

Second, it is common practice for carriers “to install one fiber drop per physical address, with multiple fiber strands within that drop to meet the capacity requirements of the residents and businesses within that physical address,” which “is much more cost effective than installing multiple drops with single fiber strands for each resident and business within a physical location.”⁷ Accordingly, the “separate facilities” component of USAC’s guidance would require carriers to wastefully install multiple drops in order to ensure that a home-based business is properly counted as a separate location. This runs counter to one of the “core principles” of the high-cost universal service support reform that the Commission has been implementing since 2011, “to ensure that support is provided in the most efficient manner possible,” recognizing that ultimately American consumers and businesses pay for the universal service fund.⁸ And, of course, it is superfluous to begin with, as *any* specification with respect to what facilities are entailed for the home-based business to count as a location suffers from the same deficiency as the separate subscription requirement insofar as it presupposes that the qualifying broadband service must already be subscribed to in order to count.

Aside from being contrary to the Commission’s consistent pronouncements regarding how a “location” counting towards fulfillment of A-CAM program broadband deployment obligations is delineated, as well as the policies underlying such pronouncements, the USAC guidance leads to inequitable results. As Petitioners maintain, companies such as theirs relied on

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just, reasonable, and affordable rates, and that “[a]ccess to” advanced telecommunications and information services should be provided in all regions of the country); *Rate-of-Return Reform Order*, 31 FCC Rcd at 3108, para. 53 (A-CAM funding benchmark same as price cap carrier model funding benchmark and also based on expected subscription rate of 70 percent; “[n]othing in the record . . . persuades us that consumers in rate-of-return carriers are less likely to subscribe to broadband where it is available than consumers served by price cap carriers”).

⁷ Petition at 5.

⁸ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3091, para. 6; *see also id.* at 3107, para. 50 (the A-CAM “is designed to capture the costs of an efficient provider”).

the Commission's orders and rules in rendering their decision to accept A-CAM support.⁹ The broadband deployment fostered by A-CAM support is engineered to serve all homes and small businesses in certain areas, so effectively denying support for otherwise qualifying deployment in these areas by not counting such deployment is tantamount to stranding the carrier's investment.¹⁰ This problematic outcome is compounded by the carrier then also being potentially subject to severe financial penalties for not satisfying buildout requirements. Furthermore, if, as it appears may be the case, the A-CAM accounted for certain home-based businesses in modeling the number of locations and associated costs in a study area,¹¹ *ipso facto* home-based businesses should qualify as separate locations for purposes of assessing compliance with deployment obligations.¹²

⁹ See Petition at 5.

¹⁰ To be clear, ITTA recognizes that receiving only one location "credit" for deployment of a fiber drop with multiple strands would not wholly thwart the investment of deploying the fiber. However, it would impose an incremental loss on the investment to the extent not counting locations which Petitioners relied upon in assessing their ability to meet their deployment obligations could subject Petitioners to deployment shortfalls and associated financial ramifications.

¹¹ CostQuest Associates, Inc., Connect America Cost Model (A-CAM), Model Methodology, A-CAM version 2.4.0 at 13, § 2.2 (rev. May 1, 2018), <https://docs.fcc.gov/public/attachments/DOC-350679A1.pdf> : "Common building locations for residences and businesses are recognized and carried through based on a GeoResults national building file. Using the common building identifier allows the process to keep together residential and business records which share a common building." Because the precise model inputs were proprietary, however, ITTA is not able to verify precisely how the A-CAM treats home-based businesses.

¹² The converse, however, is not inherently true. The Commission is well aware of "discrepancies between the number of model-determined funded locations that A-CAM I and II support recipients are expected to serve . . . and the actual number of locations that support recipients can serve." *E.g., Wireline Competition Bureau Issues Corrected Alternative Connect America Model II Offers to 37 Companies, Extends the Election Deadline, and Seeks Comment on Location Adjustment Procedures*, Public Notice, DA 19-504, at 2 (WCB June 5, 2019). As discussed above, in accepting A-CAM I support, such recipients relied not only on the model-reported number of locations to which they are required to deploy, but also upon relevant Commission orders and rules, including the Commission's oft-repeated pronouncement that a location counts towards fulfillment of deployment obligations if the carrier could provide qualifying broadband service to the location within 10 business days upon request.

Finally, in order to dilute opportunities for gaming of broadband deployment obligations through claiming that shell businesses constitute separate “locations,” the Commission should adopt safeguards for the carrier to demonstrate that the subject business operates in good standing. ITTA supports the safeguard proposed in the Petition, that the home-based business must be “registered with a State or other governmental entity.”¹³ Safeguards such as these will help to ensure that home-based businesses appropriately count as locations only where A-CAM support is being used for “the provision, maintenance, and upgrading of facilities and services for which the support is intended.”¹⁴

¹³ While registration requirements vary by locality, typically some of the hallmarks of a business operating in good standing include being established as a separate legal entity with its own bank account, filing its own tax returns, and undergoing audits. ITTA understands, however, that in some states, home-based farms may not be required to register as businesses with a governmental entity or otherwise implement some of these measures. Therefore, as it considers safeguards surrounding the Petition’s requested relief, the Commission should afford home-based farms separate treatment that befits their particular hallmarks of a business operating in good standing and that does not inhibit their counting as separate locations. This would be fully in accord with the 2018 farm bill, in which Congress directed the Commission to establish a task force to, among other things, “promote effective policy and regulatory solutions that encourage the adoption of broadband Internet access service on farms and ranches and promote precision agriculture,” and to “recommend specific new rules or amendments to existing rules of the Commission that the Commission should issue . . . to promote the rapid, expanded deployment of broadband Internet access service on unserved agricultural land . . .” Agriculture Improvement Act of 2018, Pub. L. 115-334, 132 Stat. 4490, § 12511(b)(3)(A). The Commission recently initiated the process to stand up the Precision Ag Connectivity Task Force. *See FCC Announces the Establishment of the Task Force for Reviewing Connectivity and Technology Needs of Precision Agriculture in the United States and Seeks Nominations for Membership*, Public Notice, DA 19-568 (WCB June 17, 2019) (announcing formation of Precision Ag Connectivity Task Force, seeking nominations for membership on it and Chairperson to it, and describing its mission).

¹⁴ 47 U.S.C. § 254(e).

For the foregoing reasons, the Commission, or the Bureau on delegated authority, should grant the Petition.

Respectfully submitted,

By: /s/ Genevieve Morelli

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