

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

In the Matters of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
Developing a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	

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

ITTA – The Voice of America’s Broadband Providers (ITTA) hereby submits its reply addressing the Petition filed by Pineland Telephone Cooperative, Inc. (Pineland) to reconsider, in part, the *Rate-of-Return Budget R&O*.¹ ITTA supports the Petition’s request that the Commission harmonize its policies regarding A-CAM program funding for census blocks that already include fiber-to-the-premises (FTTP) or cable to some locations, by reconsidering its decision to preclude carriers participating in the first A-CAM program, whether or not pursuant to a revised offer, from electing A-CAM II support and obligations.²

The same rationales that led the Commission wisely to find that the A-CAM II offer should include census blocks where FTTP or cable already has been deployed by the incumbent or its affiliate likewise merit the Commission affording the same treatment to current A-CAM

¹ Pineland Petition for Reconsideration, WC Docket No. 10-90 et al. (filed Mar. 21, 2019) (Petition); *Connect America Fund et al.*, Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, FCC 18-176 (Dec. 13, 2018) (*Rate-of-Return Budget R&O*).

² See, e.g., *Rate-of-Return Budget R&O* at 11, para. 31 (“We extend a new model offer, or A-CAM II, to legacy rate-of-return carriers that did not previously elect model support”).

program participants. In the *Rate-of-Return Budget R&O*, the Commission recognized that “[i]ncluding census blocks which already have some fiber-to-the-premises will promote more and higher speed deployment to locations in those census blocks that do not currently have 25/3 Mbps or better service.”³ The Commission also acknowledged, as it has previously, that areas with partially or fully-deployed FTTP may still require high-cost universal service support to maintain existing service.⁴

In light of these factors—which themselves are buttressed by the *Rate-of-Return Budget R&O*’s goals “[t]o promote additional broadband deployment in areas served by existing A-CAM carriers . . . [and] widespread availability of 25/3 Mbps service throughout the nation,”⁵ a nearly one-quarter century national broadband policy of encouraging the deployment of advanced telecommunications capability *to all Americans*,⁶ and statutory requirements “that universal service funds be used for their intended purposes – maintaining and upgrading supported facilities and services”⁷—it is hard to reconcile the Commission *not* providing the same opportunity to current A-CAM program participants. As crystallized by the Petition:

If 25/3 Mbps is the minimum acceptable level of broadband – which it is – and if it makes sense to provide support to meet that level of service even in census

³ *Id.* at 15, para. 45.

⁴ *See id.* While the Commission declined in the *Rate-of-Return Reform Order* to deem such census blocks as eligible to participate in the original A-CAM plan, the Commission did clarify that its “decision to exclude from support calculations this subset of census blocks in no way indicates a belief that once networks are deployed, they no longer require support.” *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, 3109, para. 56 (2016) (*Rate-of-Return Reform Order*). Indeed, the Commission has elaborated that the cost module of the A-CAM “fairly estimates the costs of providing service even if that service has already been deployed.” *Rate-of-Return Budget R&O* at 15, para. 45.

⁵ *Rate-of-Return Budget R&O* at 6, para. 14.

⁶ *See* 47 U.S.C. § 1302 (codifying, within Title 47 of the United States Code, Section 706 of the Telecommunications Act of 1996).

⁷ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3093, para. 11 (citing 47 U.S.C. § 254(e)).

blocks where fiber or cable already exists – which it does – then there is no good reason to deny the residents of rural areas whose carriers accepted a previous A-CAM offer the prospect of bringing their broadband service up to the minimum acceptable 25/3 Mbps level. . . . [B]arring carriers who previously accepted an A-CAM I offer from electing the A-CAM II offer unfairly prejudices A-CAM I carriers and the end-user customers those carriers serve.⁸

ITTA agrees with Pineland that this distinction among rural locations, via permitting funding for census blocks that already include some FTTP or cable to some locations for A-CAM II support recipients but not for current A-CAM program participants, is inequitable, and not adequately addressed by the revisions to the original A-CAM offer because a sizeable number of locations under that offer will remain without support for 25/3 Mbps broadband service.⁹

ITTA, in fact, advocated for a similar outcome to the Petition’s request in its comments on the *Rate-of-Return Budget NPRM* that laid the groundwork for the *Rate-of-Return Budget R&O*.¹⁰ In those comments, ITTA urged the Commission “to allow locations served by original A-CAM participants in census blocks that would otherwise have been eligible for the second offer to count towards original A-CAM participants’ overall deployment obligations attendant to the original offer.”¹¹ ITTA reasoned that such allowance would be congruent with the principle emphasized in its comments that there should be parity in almost all respects between the original A-CAM offer and the A-CAM II offer in order to yield comparable public interest benefits,¹² and that such allowance “would mitigate the inequity inherent in permitting census blocks with FTTP or cable deployment to receive support from the second A-CAM offer but not

⁸ Petition at 4.

⁹ *See id.* at iii, 4-5.

¹⁰ *Connect America Fund et al.*, Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, FCC 18-29 (Mar. 23, 2018) (*Rate-of-Return Budget NPRM*).

¹¹ Comments of ITTA, WC Docket Nos. 10-90, 14-58, 07-135, CC Docket No. 01-92, at 25 (May 25, 2018) (ITTA *Budget NPRM* Comments).

¹² *See, e.g., id.* at 22.

the original one.”¹³ Although the Commission declined to adopt ITTA’s position on the counting towards original offer deployment obligations of locations in census blocks that would otherwise have been eligible for the second offer, one of the Commission’s reasons was that some of the locations are already served by FTTP or cable technology, “so making these areas eligible for deployment would limit the amount of deployment to additional unserved locations.”¹⁴ This perceived deficiency, however, would be cured by the relief the Petition seeks as, according to the Petition, allowing current A-CAM program participants to accept the A-CAM II offer would “increase the number of fully-funded locations eligible to receive 25/3 Mbps service nationwide by over 230,000 locations.”¹⁵

Another important new development with A-CAM II that militates towards granting the relief the Petition requests is that while the Commission excluded census blocks with FTTP or cable from the current A-CAM program to focus the limited A-CAM budget on those carriers most likely to use A-CAM funding to build new networks,¹⁶ with A-CAM II the Commission does “not limit the amount of support available through this offer and do[es] not adopt any provision to reduce the [\$200 per-location] funding cap based on the amount of support resulting from carrier elections of this offer.”¹⁷ To ensure that granting the relief the Petition requests does not result in current program participants that accept the A-CAM II offer having the opportunity

¹³ *Id.* at 25; see Petition at 8 n.17 (quoting ITTA *Budget NPRM* Comments).

¹⁴ *Rate-of-Return Budget R&O* at 10, para. 27.

¹⁵ Petition at 2.

¹⁶ See *Rate-of-Return Budget NPRM* at 48, para. 121 (citing *Rate-of-Return Reform Order*, 31 FCC Rcd at 3109, para. 56).

¹⁷ *Rate-of-Return Budget R&O* at 12, para. 37. The Commission also specified that the A-CAM II offer “will not affect the budget for rate-of-return carriers remaining on legacy support.” *Id.* at 11, para. 34.

to over-recover, Pineland recommends that a portion of accepting carriers' current program support could be netted against A-CAM II support.¹⁸ ITTA supports that recommendation.¹⁹

The Petition adroitly observes that the various revisions that the Commission has made to the original A-CAM offer since it was first tendered in August 2016 “demonstrates and affirms that the Commission may revise the terms available to carriers that have accepted previous offers when doing so would advance its goals and promote the public interest.”²⁰ As discussed above, the relief that the Petition requests satisfies those criteria. Therefore, for the foregoing reasons, ITTA urges the Commission to grant it.

Respectfully submitted,

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May 6, 2019

¹⁸ *See, e.g.*, Petition at 11-12.

¹⁹ Pineland suggests that the additional incremental support that would result from a grant of the Petition actually would be less than the per-location support the Commission already has devoted to the A-CAM program. *See id* at 10-11.

²⁰ *Id.* at 9.