

January 23, 2020

**Via ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 - 12th Street, SW  
Washington, DC 20054

**Re: Rural Digital Opportunity Fund, WC Docket No. 19-126; Connect America Fund, WC Docket No. 10-90**

Dear Ms. Dortch:

This ex parte notification is being submitted under Section 1.1206 of the Commission's rules. On January 23, 2020, the undersigned, along with Curtis Wynn (Roanoke Electric), Glenn Martin (Carolina Connect) and Michael Hacker, Senior Advisor to Representative James Clyburn, met with Commissioner Starks and Wireline Advisor Austin Bonner about ensuring the Rural Digital Opportunity Fund (RDOF) reverse auction properly incentivizes investment in high-speed networks that will meet the needs of rural communities for decades.

Among its positions and discussion points, NRECA expressed strong support for the decision in the RDOF draft order modifying the bid assignment procedures; beginning in the clearing round, support will be assigned to the bidder whose technology plan has the lowest weight. This decision likely will result in more support being extended to more locations, many of which will be served with future proof, fiber-based networks. NRECA has learned that multiple proposals have been submitted into the record that would water down, if not gut, the bid assignment procedures in the draft order. These proposed changes, raised at the last minute, lack any evidentiary or analytical basis and were clearly intended to do nothing more than render the current clearing round provision inoperative given prior experience. NRECA urges the FCC to maintain the clearing round bid assignment procedure as laid out in the draft RDOF order.

We also expressed concern with the aspect of the draft order adding a 50/5 Mbps tier as that performance tier is already less than the median national download speed. As the Commission's Measuring Broadband America report has found, the median download speed among the largest Internet Service Providers was 72 Mbps – as of September 2017.<sup>1</sup> Instead, NRECA has recommended addition of a symmetrical tier of 100/100 Mbps. Failure to properly prioritize highspeed networks well

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<sup>1</sup> *Eighth Measuring Broadband America Fixed Broadband Report* (available at: <https://www.fcc.gov/reportsresearch/reports/measuring-broadband-america/measuring-fixed-broadband-eighth-report>).

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above the Minimum Performance Tier (25/3) will result in "antiquated" networks at the end of the ten-year RDOF funding period.

NRECA acknowledged the FCC's obligation to safeguard public funds in the event an "entity is not using the support for its intended purposes."<sup>2</sup> However, NRECA expressed concern that the Letter of Credit (LOC) requirements in the current draft are both unduly onerous and disproportionate to the risk. The compounding nature of the LOC requirements in the draft order would force participants—ranging from small providers to large, publicly-traded companies—to finance LOCs at progressively excessive levels. NRECA, like others, proposed modifications to the LOC requirement that would reduce the financial impact of LOCs by reducing their value.

NRECA has been working with a coalition of providers to address this issue. NRECA strongly recommends that the Commission adopt the proposal submitted by US Telecom in its January 20, 2020 ex parte letter.<sup>3</sup> Under this proposal, increases in the amount of LOCs are reduced to more reasonable levels as award recipients meet their buildout obligations, effectively incenting participants to deploy their networks more quickly and shifting more RDOF support to network buildouts from accelerating LOC finance charges. Further, nothing in the proposal is intended to reduce USAC's overall ability to audit and verify locations; the process described is strictly for purposes of determining the appropriate LC obligation.

Please contact the undersigned if you have any questions about this submission.

Sincerely,

*/s/ Brian M. O'Hara*

Senior Director Regulatory Issues – Telecom and Broadband  
NRECA

cc: Austin Bonner

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<sup>2</sup> *Rural Digital Opportunity Fund*, Report and Order, FCC CIRC2001-01 (Jan. 9, 2020) ("Draft Order") at ¶ 103.

<sup>3</sup> Letter from Mike Saperstein, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-126, 10-90 (filed Jan. 15, 2020).