

June 7, 2024



Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
45 L Street, NE  
Washington, DC 20554

**RE: *Ex Parte* Presentation: *Connect America Fund*, WC Docket No. 10-90; *Rural Digital Opportunity Fund* WC Docket No. 19-126; *Rural Digital Opportunity Fund Auction* AU Docket No. 20-34**

Dear Ms. Dortch:

On Wednesday, June 5, 2024 the undersigned and Brian O’Hara on behalf of the National Rural Electric Cooperative Association (NRECA), joined by representatives of member companies New Hampshire Electric Cooperative, Inc and North Alabama Electric Cooperative, spoke with the following Wireline Competition Bureau staff: Suzanne Yelen, Associate Bureau Chief, Jesse Jachman, Deputy Division Chief, Telecommunications Access Policy Division, Heidi Lankau, Attorney Advisor, Dangkhua Nguyen, and Audra Hale-Maddox, Chief of Staff, Rural Broadband Auctions Task Force regarding Rural Digital Opportunity Fund (RDOF) buildout and issues related to deduplication of grant funding and overbuilding.

North Alabama Electric Cooperative (“NAEC”) explained that it was a successful bidder in the FCC’s RDOF Auction and that its award was finalized on April 15, 2022. NAEC noted that while it has been diligently meeting its buildout and service commitments for the majority of the Census Block Groups (“CBGs”) that it won, NAEC concluded that it cannot economically serve a small portion of these areas. Accordingly, in January 2024, NAEC reached out to the FCC to coordinate a partial surrender of five of its CBGs. NAEC recognized that its surrender of these CBGs constitutes a partial default of its RDOF obligation but argued that any penalties for an early surrender should be reasonable and proportionate to the default. NAEC noted that the FCC’s current proposed penalty structure for an early partial surrender are excessive and in no way proportional to the level of default harm caused by the surrender of CBGs, and if imposed could impact the ability of NAEC and other smaller entities to meet their ongoing commitments for their remaining CBGs.

NAEC urged the FCC to revise and reduce its penalties for partial early surrenders. NAEC argued that given the relatively early stage of the RDOF buildout and service milestone process, and the public interest benefits in having these areas relinquished sooner rather than later, it would be reasonable to impose a baseline forfeiture penalty for early partial surrenders that is similar to the \$3,000 per CBG penalty imposed during the Long Form phase. NAEC also urged that penalties be reduced to the extent that an early surrendered area obtains a service commitment by another provider under a different federal or state program or where private investment has already resulted in service being provided.

New Hampshire Electric Cooperative (NHEC) explained that while it was awarded 70 CBGs and has built service to approximately 35% of its awarded blocks, other carriers have been awarded state, federal, and community grants in some of those same areas. As a result, some of their obligation now includes locations that have been already served with fiber internet services either through other grants or through private investment. NHEC stressed the inefficiency of this type of duplication. Additionally, NHEC advocated for the FCC to adopt sensible solutions for entities wishing to move forward with some of their RDOF CBGs and return CBGs that no longer make sense to build. Further they stressed that penalties should be measured and considered, not punitive for entities continuing to build and provide much needed fiber networks.

Thank you for your attention to this correspondence. Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS.

Sincerely,  
*/s/ Gregory J. Orlando*  
Gregory J. Orlando  
Regulatory Affairs Director