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

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| In the Matter of | ) | |
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| Data Caps in Consumer Broadband Plans Collection | ) | WC Docket No. 23-199 |
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**REPLY COMMENTS OF**
**THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**
**(NRECA)**

The National Rural Electric Cooperative Association ("NRECA") submits these Reply Comments in response to the Notice of Inquiry issued by the Commission in the above-captioned proceeding ("*NOI*").[1]

NRECA is the national service organization for nearly 900 not-for-profit rural electric cooperatives that provide electric power to 56% of the nation's landmass, including approximately 42 million people in 48 states, or approximately 13 percent of U.S. electric customers. Rural electric cooperatives serve 88% of the counties of the United States, including 92% of the nation's 353 persistent poverty counties.

Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. They are dedicated to improving the communities in which they serve, and the management and staff of rural electric cooperatives are active in rural economic development efforts. Electric cooperatives are private, not-for-

[1] *In the Matter of Data Caps in Consumer Broadband Plans,* WC Docket No. 23-199, Notice of Inquiry (rel. October 15, 2024).

profit entities that are owned and governed by the members to whom they deliver electricity, are democratically governed, and operate according to the seven Cooperative Principles.[2] All of NRECA's electric distribution cooperatives are small business entities as defined by the U.S. Small Business Administration.

The nation's rural electric cooperatives are committed to promoting the deployment of advanced telecommunications capabilities within the rural communities and areas in which they serve, and electric cooperatives are expected to play a crucial role in the development of broadband infrastructure to serve rural unserved and underserved locations. Over 200 rural electric cooperatives currently are working to provide these much-needed broadband services themselves or through partnerships with affiliated or unaffiliated ISPs. Another 100 such projects are being considered.

## REPLY COMMENTS

NRECA submits these brief Reply Comments to add several points to the record. Of the 200+ rural electric cooperatives in the U.S. that are actively involved in providing broadband services, to the best of NRECA's knowledge **none** of them includes data caps as part of any service package. We believe there are two main reasons for this, both of which may help inform the data caps debate. First, electric cooperative broadband projects typically involve fiber to the premises (FTTP) networks, and thus do not encounter capacity constraints that might apply to wireless, DSL, coaxial, or LEO satellite networks. And second, because electric cooperatives are owned by their member customers and accountable to them, the maximization

[2] The seven Cooperative Principles are: Voluntary and Open Membership, Democratic Member Control, Members' Economic Participation, Autonomy and Independence, Education, Training, and Information, Cooperation Among Cooperatives, and Concern for Community.

of customer revenue is not the cooperatives' core objective. Instead, electric cooperatives impose fees and restrictions only if they are economically *necessary*.

A number of commenters in this proceeding assert that data caps (or "usage-based pricing plans") are necessary as a technical and/or economic matter, and are good for consumers.[3] Such assertions are contrary to the experience of NRECA's electric cooperative members offering broadband services. Cooperatives are owned by and ultimately answer to their member/consumers; if data caps were in fact good for these subscribers, electric cooperatives would employ them. Again, we are not aware of a single co-op that has implemented data caps.

NRECA acknowledges that capacity constraints in wireless and other non-FTTP networks may require certain ISPs to squelch network usage in order to avoid a capacity crunch. From an economic perspective, ISPs using such networks may find it useful to impose data caps in order to properly allocate, or even avoid altogether, increased operating costs relating to overprovisioning. More cynically, ISPs using all types of networks might seek to impose data caps simply to extract additional revenue from heavy users, even when the marginal cost of accommodating such users may be minimal or nonexistent.

Data bits are qualitatively different than other commodities. While an ISP certainly pays for the electricity and specialized equipment to transmit bits along wires (or via radiofrequency spectrum), the cost to the ISP increases only marginally – and perhaps not at all – if more bits are consumed by the end-user. The ISP does not pay for the bits themselves, but only for their

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[3] *See* Comments of CCA, Comments of CTIA, Comments of Free State Foundation, Comments of ITIF, Comments of NCTA, Comments of TechFreedom, Comments of U.S. Chamber of Commerce, Comments of USTelecom, Comments of WISPA.

transmission, and the transmission is already limited by the connection speed tier purchased by the consumer.

As noted above, wireless, LEO or other non-FTTP networks may encounter real technical challenges if there are more heavy users on their capacity-limited networks than anticipated. In such cases, a data cap may be a rational means to discourage unusually heavy use that might strain the network and reduce service for other users, and to allocate additional costs. But in the case of a well-designed FTTP network, it seems fair from our experience to presume that a data cap has little or no financial or technical justification at all, other than as a means to boost the bottom line.

As a final point, NRECA urges the Commission to recognize that heavy use of broadband connections by a portion of users is indicative of productive economic development activity, rather than some objectionable unjustified hoarding of data capacity. As the comments of many individuals in this docket make clear, heavy users are not simply gamers or voracious consumers of 4G video, but instead are oftentimes students or professionals working in data-intensive fields. For these people, a data cap presents a real-world problem, affecting their livelihood, education, and business development prospects. In economic terms, a data cap can be viewed as an economic disincentive to putting broadband connections to their most productive use.

## CONCLUSION

NRECA appreciates the opportunity to provide the above Reply Comments in this proceeding.

[*Signature page follows*]

Respectfully submitted,

**National Rural Electric Cooperative Association**

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