

**CONCURRING STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

*Re: Connect America Fund, WC Docket No. 10-90, ETC Annual Reports and Certifications, WC Docket No. 14-58, Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Obsolete ILEC Regulatory Obligations that Inhibit Deployment of Next-Generation Networks, WC Docket No. 14-192.*

Today the Commission chooses to trade faster deployment to all for marginally higher-speed broadband for some. The reason I can concur with this item is that the Chairman and staff were willing to work with me to make improvements to promote faster deployment to some unserved consumers, and the Commission will be providing carriers at least some ETC relief in areas that are low-cost or are served by certain other providers.

To be clear, I support higher speeds for all Americans. I do believe that if we had stuck to the path set forth in 2011, we would have gotten basic 4/1 broadband service to the maximum number of unserved Americans, while also increasing speeds for others in the process. That's because deploying 4/1 to more remote areas would mean higher speeds in areas passed. Moreover, the reality is that anyone that's deploying in unserved areas these days won't be installing copper. And we would have done all of that within 5 years. We also would have opened more areas to a Phase III competitive bidding process sooner, which could have meant even better speeds, lower costs to the Fund, or even both.

Instead, consumers will now have to wait longer to get service and, at the end of that timeline, they will only be guaranteed speeds of 10/1. And that's just the lucky ones that don't fall within the territory that carriers can choose to write off altogether. I'm also worried that providers that might have been interested in competing for funding in three years, if we had stuck to the original plan, will decide that the fix is in and won't bother to show up for an auction that we claim will happen in five years.

It is true that some incumbents will turn down the not-so-statewide commitment in some places and those areas will go to auction sooner, opening those areas to competing providers. But rethinking CAF Phase II and the resulting delays have muddied that path as well. Supposedly, that auction will be held in 2016. But I am skeptical that the Commission can pull that off given the amount of work and Commission resources needed to complete the incentive auction now scheduled for that time. Moreover, once we do get around to the post-ROFR auction, the winning bidders will have a full 10 years to complete their deployment. So unserved consumers in those areas might not get service until 2026. That is just laughable.

Moreover, I've seen no evidence of any work on the Remote Areas Fund – the backstop to provide service in areas that aren't claimed by the incumbents or at auction. There is no reason that we cannot start to work on the RAF and have a framework ready for when we know the specific areas. If we don't plan ahead, we could use up all of the funding in lower cost areas, jeopardizing service in these hardest to reach areas.

For those who think that this is much ado about nothing, I present the attached map of price cap areas. If you can't see the key, the dark green portions are areas that were initially eligible for Phase II support at the start of the challenge process because there were no unsubsidized competitors in those areas offering service of at least 3/768. Many of those areas are unserved by incumbents as well. The dark red are the extremely high-cost areas that are most likely to end up in the RAF after the post-ROFR auction. That's a lot of areas – and a lot of consumers – particularly west of the Mississippi.

To sum up my concerns, based on the rules adopted today, we hope that Americans that live in those dark green areas will be served within 6 to 10 years from now, but for many it will only be at 10/1. Think about what 10/1 is going to seem like at that time. For those dark red areas, all we can say is that we plan to have a plan. For them, forget about debates about fast lanes or slow lanes; they have no lanes.

Even with these serious shortcomings, I suggested improvements, as I routinely do, in the hopes that engaging will mean that an item at least doesn't get any worse. And that was a real possibility here as carriers may not have received ETC relief in areas that are low cost or served by certain other providers. I am also pleased that the order now includes incentives for carriers to identify upfront areas encompassing at least 2 percent out of the 5 percent of the locations that they are no longer required to serve so that, rather than stranding consumers in those areas for the duration of CAF Phase II, they could potentially be served by another provider. Similarly, the order now makes clear that there must be deployment to truly unserved areas even in the early years of the term.

Sadly, a number of my edits were still rejected. Top of the list: the item ignores my repeated calls for an overall cap on USF, on the argument that this isn't the place to do it although it is the same argument made on every USF item we have considered.

On balance, however, and in light of the accommodations that were made, I am able to concur with the order. I thank the staff for their hard work.

# PRICE CAP AREAS MAP

