Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	
Connect America Fund	)	WC Docket No. 10-90

REPLY COMMENTS OF AT&T SERVICES, INC.

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I. INTRODUCTION AND SUMMARY

Congress created the Federal Communications Commission with the express purpose of making available to all people of the United States access to communication services with adequate facilities at reasonable charges.[1] In other words, the Commission's primary goal is to promote universal service. By 2019, competitive market forces largely succeeded in ensuring universal service to all Americans. However, there remain areas of the country where consumers have fewer competitive alternatives, and lack access to broadband altogether. It is in these areas where market forces alone are insufficient to incent private investment to provide consumers access to next generation services. Recognizing as much, the Commission established its Connect America Fund in 2011 to repurpose legacy high-cost funding to support broadband-capable networks in mostly rural, underserved and unserved areas.[2] AT&T Services, Inc., through its operating affiliates (collectively, "AT&T") has been an enthusiastic partner in closing the digital divide. Since 2015, it has participated in the Connect America Fund Phase II ("CAF II") model-based support program, and by the end of 2020 it will have deployed and offered broadband and voice service to 1.1 million locations in Commission-identified, high-cost census blocks in 18 states.

As the CAF II model-based support program winds down, the Commission seeks comment on its replacement: the Rural Digital Opportunity Fund ("RDOF").[3] AT&T looks

[1] 47 U.S.C. § 151.

[2] *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*").

[3] *Rural Digital Opportunity Fund, Connect America Fund*, WC Docket Nos. 19-126, 10-90, Notice of Proposed Rulemaking, FCC 19-77 (rel. Aug. 2, 2019) ("*NPRM*").

forward to working with the Commission and other stakeholders to finalize RDOF auction rules that advance the Commission's goals of expanding broadband access as much as possible with the budget the Commission has set. These reply comments are informed by AT&T's first-hand experience with the challenges of rural broadband deployment and its participation in the Commission's CAF II program.

First, if the Commission proceeds with the RDOF auction prior to fully implementing the outcome of the Digital Opportunity Data Collection ("DODC") proceeding,[4] it should at least create a targeted version of the so-called Fabric for the rural areas to be auctioned in Phase I of RDOF. Doing so will allow providers to rely on the Fabric's vastly improved broadband serviceable location data when bidding for and deploying broadband. Second, the Commission should increase bidders' certainty and confidence by holding them harmless for inaccuracies in the Commission's location data, rather than requiring providers to identify locations that do not exist and revoking funding for those locations. Third, the Commission should improve its transition plans by reaffirming that a seventh year of funding remains available for CAF II recipients, and clarifying that RDOF recipients' eligible telecommunications carriers' ("ETC") voice obligations begin at the start of their funding period. Fourth, the Commission should add a 50 Mbps download /6 Mbps upload ("50/6 Mbps") speed tier to encourage broadband deployment to as many locations as possible, and should reject proposals to over-emphasize more costly tiers. Finally, the Commission should adopt participation and performance requirements that encourage robust participation among all terrestrial-based technologies, and

[4] *Establishing the Digital Opportunity Data Collection, Modernizing the FCC Form 477 Data Program*, WC Docket Nos. 19-195 & 11-10, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 19-79 (rel. Aug. 6, 2019) ("*Digital Opportunity Data Collection Order*").

reject unnecessary barriers such as its proposal to mandate a 70 percent subscription requirement on winning bidders.

II. THE COMMISSION SHOULD CONDUCT THE RDOF AUCTION BASED ON THE BEST DATA AVAILABLE

AT&T joins the near-universal agreement that the Commission should base the RDOF auction on the best broadband mapping data available.[5] As the Commission has recognized, "[a]ccurate broadband deployment data is critical to . . . bridg[ing] the digital divide."[6] The inaccuracies in Form 477 data, and the flaws of relying on that data to make high-stakes funding decisions, are likewise well established.[7] The Broadband Mapping Consortium's mapping pilot program (the "Pilot") has demonstrated the feasibility of a better approach: using public and commercial data sources to create a Broadband Serviceable Location Fabric ("Fabric") that identifies and precisely locates virtually every broadband-capable structure in a geographic area.[8]

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[5] *See, e.g.*, USTelecom Comments, WC Docket Nos. 19-126, 10-90, 19-195, at 8-10 (filed Sept. 20, 2019); CenturyLink Comments, WC Docket Nos. 19-126, 10-90, at 8-10 (filed Sept. 20, 2019); Frontier Comments, WC Docket Nos. 19-126, 10-90, at 3-8 (filed Sept. 20, 2019); US Cellular Comments, WC Docket Nos. 19-126, 10-90, at 10-11 (filed Sept. 20, 2019); ITTA Comments, WC Docket Nos. 19-126, 10-90, at 3-4 (filed Sept. 20, 2019); Windstream Comments, WC Docket Nos. 19-126, 10-90, at 6-9 (filed Sept. 20, 2019).

[6] *Digital Opportunity Data Collection Order* at ¶ 1.

[7] *See, e.g.*, Joint Comments of USTelecom, ITTA, and WISPA, WC Docket No. 19-195, at 7-8 (filed Sept. 23, 2019); *see also* Frontier Comments at 3 & n.3 (quoting Senator Roger Wicker's assessment that "[f]lawed and inaccurate maps ultimately waste resources and stifle opportunities for economic development").

[8] *See* Letter from Jonathan Spalter, President & CEO, USTelecom – The Broadband Association, Genevieve Morelli, President, ITTA, Claude Aiken, President & CEO, WISPA, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-195, 11-10 & 10-90, attaching "Broadband Mapping Initiative Proof of Concept Summary of Findings Report" (Aug. 20, 2019) ("Pilot Report").

AT&T applauds the Commission's efforts to enhance the accuracy of broadband deployment data through the DODC.

A number of commenters in this proceeding urge the Commission to complete the DODC proceeding prior to the RDOF auction.[9] If the Commission nonetheless decides to proceed with a Phase I auction of wholly unserved census blocks prior to fully implementing the DODC (which involves both building the nationwide Fabric and collecting and incorporating service-availability information from broadband providers), AT&T agrees with USTelecom that the Commission should complete a targeted Fabric for just those census blocks prior to the Phase I auction.[10] Based on its experience with the two-state Pilot, USTelecom has estimated that the Commission could complete the Fabric for currently unserved census blocks in five to eight months.[11] It is therefore unlikely that completing the Fabric for these targeted areas will delay Phase I.[12] Moreover, the Fabric is based on public and commercial data sources, and can be completed without gathering data from current broadband providers; thus, it should not trigger review under the Paperwork Reduction Act.

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[9] *See, e.g.*, Windstream Comments at 6-9; US Cellular Comments at 10-11; Frontier Comments at 6 ("It would be inexplicable to begin the process of collecting better data for the purpose of improving the allocation of support, and then allocate the bulk of the next decade's support without the benefit of the new data."); *but see* ACA Comments, WC Docket Nos. 19-126, 10-90, at 19-20 (filed Sept. 20, 2019) (urging the Commission to rely on 477 data and a challenge process).

[10] *See* USTelecom Comments at 11-12.

[11] *See id.* at 11.

[12] *See* Windstream Comments at 8-9 (observing that in the CAF II auction, "just over a year transpired between when the Commission adopted its last rules to the day that the short form applications were due," which would allow sufficient time to develop the targeted Fabric without delaying the auction if the Commission proceeds at a similar pace here).

Proceeding with Phase I after completing the targeted Fabric for the unserved census blocks will enable the Commission to rely on updated location information rather than the Connect America Cost Model ("CAM").[13] The CAM is based on data that is nearly a decade old,[14] and commenters agree that it contains a significant number of inaccuracies.[15] The two-state Pilot found that almost half of the Fabric's location counts for rural census blocks do not match 2011 census location counts, which is used in the CAM.[16] The Commission has recognized the "disparity between the number of locations specified by the CAM and the 'facts on the ground' " and that proceeding with the Phase I auction based on CAM data will result in providers bidding on and receiving support for some number of locations that do not exist.[17]

In this regard, the CAF II auction process, which was based on the same inaccurate CAM data, strongly cautions against relying on that same flawed data in the RDOF auction. AT&T agrees with Frontier that relying on the CAM led to "errors plagu[ing] the CAF Phase II auction process," and that if the Commission again relies on the same inaccurate data, it will discourage participation, increase the cost of deployment, and lead to locations going unserved.[18] By

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[13] *NPRM* at ¶ 30.

[14] *See* ITTA Comments at 3 & n.7; USTelecom Comments at 7.

[15] USTelecom Comments at 12-13; ITTA Comments at 3-4, 11; WISPA Comments, WC Docket Nos. 19-126, 10-90, at 17 (filed Sept. 20, 2019).

[16] Pilot Report at 7, 32, USTelecom Comments at 12-13.

[17] *NPRM* at ¶ 30.

[18] Frontier Comments at 4 (as a CAF II auction participant, Frontier "found that inaccurate maps . . . added significant administrative costs to the bidding process"); *see also* Windstream Comments at 7-8 (inaccuracies "lead to insufficient bid amounts and lost opportunities to deploy service where it is needed").

holding Phase I at a time that it can take advantage of the Fabric, the Commission can largely avoid these problems, and significantly reduce the issue of whom should bear the burden of identifying and correcting those inaccuracies, as described below in Part III.[19]

III. THE COMMISSION SHOULD NOT PENALIZE RDOF WINNERS FOR INACCURATE LOCATION DATA

The Commission should support robust participation by holding providers harmless for inaccuracies in the Commission's data. A provider needs accurate location data to make an informed decision regarding where and how much to bid, which involves calculating the cost of service based on the number of locations it will serve, as well as other variables, such as the amount of revenue it can expect to receive from prospective customers. It is extremely difficult for a provider to develop a bid strategy if it cannot rely on the Commission's location data to develop an accurate assessment of its costs and faces the prospect of returning an uncertain amount of funding in the future. Some providers will simply choose not to participate, as the Commission has recognized.[20] Although AT&T was a qualified bidder in the CAF II auction, it chose not to submit a single bid, largely because of the significant discrepancies between the number of locations CAM reported in a given area and what AT&T's own data showed to be the correct number of locations in that area. Thus, AT&T agrees with commenters that urge the

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[19] *See NPRM* at ¶ 30 (proposing to adopt the CAF II auction process whereby a winning bidder has one year to identify location discrepancies and return support on a pro rata basis but requesting comment on alternatives).

[20] *See Connect America Fund et al.*, Order on Reconsideration, 33 FCC Rcd 1380, ¶ 25 (2018) ("*CAF II Auction Reconsideration Order*") ("potential bidders may be reluctant to bid on census block groups if the number of locations estimated by the CAM is substantially different from the number of actual locations currently on the ground, leaving those areas without an opportunity to get served").

Commission to encourage a competitive auction by holding providers harmless for inaccuracies in the Commission's data.[21] It is critical to do so if the Commission relies on the CAM data, but it remains important even if the Commission completes the targeted Fabric prior to the Phase I auction because the Fabric will be periodically updated during the RDOF service term. For that reason, even with the Fabric in place, the benefit of certainty to prospective auction bidders far outweighs any cost associated with adopting a hold harmless provision.

The Commission proposes dealing with "disparities between the number of locations estimated . . . and the number of locations actually on the ground in the eligible census blocks within their winning bid areas" by using the same process it used in the CAF II auction, in which a winning bidder had one year to identify and "sufficiently demonstrate" inaccuracies in the census blocks for which it won support, and return any support for those non-existent locations on a pro rata basis.[22] While this process may have been reasonable for the much smaller CAF II auction, AT&T agrees with USTelecom that it simply will not work with the significantly larger RDOF auction.[23] As applied to RDOF, such a burdensome true-up process will discourage participation.

If the Commission declines to hold providers harmless, it should modify its current location true-up proposal in two ways. First, it should allow providers to complete their builds before having to notify the Commission of location discrepancies. Based on AT&T's current CAF II experience, the Commission's one year proposal is not enough time to identify

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[21] *See* USTelecom Comments at 14-16; CenturyLink Comments at 21-22; Windstream Comments at 21; ITTA Comments at 11-12.

[22] *NPRM* at ¶ 30; *CAF II Auction Reconsideration Order* ¶ 23.

[23] USTelecom Comments at 15.

discrepancies for providers that have won tens of thousands, or upwards of 100,000, locations in a state. Moreover, the Commission's implementation of a one-year true-up process in the CAF II auction has encountered delays that caution against using a similarly abbreviated time frame here.[24] Second, the Commission should use the targeted Fabric, discussed above, as a starting point for identifying inaccuracies, and allow providers to submit evidence that the Fabric location counts are incorrect in a particular census block. Using the Fabric to streamline the true-up process will make the most of the Commission's investment in accurate data, and leave providers with more resources to devote to broadband deployment.

IV. THE COMMISSION SHOULD REFINE ITS TRANSITION PROPOSALS

AT&T agrees with USTelecom that RDOF raises important questions regarding the transition from CAF II model-based support to RDOF funding.[25] AT&T looks forward to working with the Commission and other stakeholders to develop a targeted, transitional support mechanism based on the proposals in the record. AT&T's specific recommendations in this regard follow.

A. As a threshold matter, the Commission should reaffirm its prior conclusion that the Commission will offer, and all CAF Phase II model-based support recipients may elect, a seventh full year of CAF II funding.[26] As USTelecom explained, the Commission adopted the

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[24] *See* USTelecom Comments at 12; ITTA Comments at 2.

[25] *See generally* USTelecom Comments at 24-33.

[26] *Connect America Fund et al.*, Report and Order, 29 FCC Rcd 15644, ¶ 32 (2014) ("*2014 CAF II Order*"). *But see NPRM* at ¶ 101 (seeking comment on "which price cap carriers should be eligible for the optional seventh year of support").

seventh year of CAF II funding after it increased the required speed offering for supported locations, out of a recognition that six years of funding may not cover the investment required to serve all locations at that higher speed and to fulfill its commitment to avoiding "flash cuts."[27] Moreover, the Commission tacitly acknowledged that a seventh year of support would be available in order for CAF II model-based support recipients to catch up, if necessary, on their final build milestone.[28] AT&T agrees that the seventh year of support remains a necessary component of the Commission's statutory obligation to provide "predictable and sufficient" funding.[29] In addition, bidders relied on the availability of the seventh year of funding in deciding whether to accept the state-level commitment, so the continued availability of these funds is necessary to avoid disruption of settled expectations.[30] For this reason, we also agree with ITTA that price cap carriers should not be subject to any new obligations as a condition of receiving that additional year of support.[31]

In the event that the Commission is ready to disburse RDOF funding to a CAF II model-based support recipient before its seventh year of funding ends in December 2021, the Commission should disburse the higher of the RDOF or the CAF II support amounts for the census blocks covered by both programs until the end of 2021. The Commission previously used

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[27] *See* USTelecom Comments at 31-32 (quoting *2014 CAF II Order* at ¶ 32).

[28] *2014 CAF II Order* at ¶ 148.

[29] *See* USTelecom Comments at 32 (quoting 47 U.S.C. § 254(b)(5)).

[30] *See id.*; *see also* ACA Comments at 27; Windstream Comments at 23; ITTA Comments at 28-29.

[31] ITTA Comments at n.103.

this approach when transitioning between legacy high-cost support and CAF II support, recognizing that this approach best served the public interest and the goals of the program.[32]

B. The Commission should also clarify that prevailing bidders in the RDOF auction must begin offering voice services throughout their ETC service area when the Commission authorizes them to receive RDOF funds.[33] At the same time and consistent with its precedent, the Commission should grant the price cap carrier forbearance from the ETC voice requirement in those areas where the Commission has authorized RDOF funding to another provider.[34] AT&T agrees with USTelecom that the wording of the Commission's *NPRM* could imply that a gap exists between the start of the RDOF funding period and the start of the obligation to provide voice service.[35] There is no reason why an RDOF support recipient cannot meet its obligation to provide voice service throughout its ETC service territory on Day 1, given that an ETC may meet its voice obligations through a "combination of its own facilities and resale of another carrier's services."[36] Finally, we agree with USTelecom that the Commission should acknowledge the regulatory consequences of a non-price cap carrier prevailing in the RDOF auction by making certain findings.[37] Specifically, in addition to granting price cap carriers

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[32] *See 2014 CAF Order II* at ¶ 96. *See also* USTelecom Comments at 33.

[33] *See 2014 CAF Order II* at ¶ 51 (granting price cap carriers forbearance in areas where another ETC is receiving high-cost support to deploy voice and broadband service to fixed locations).

[34] *See, e.g., id.; Connect America Fund Phase II Auction Support Authorized for 459 Winning Bids*, Public Notice, DA 19-414, at 6 & n.39 (rel. May 14, 2019).

[35] *See* USTelecom Comments at 27 (quoting *NPRM* at ¶ 28).

[36] 47 U.S.C. § 214(e)(1)(A). *See also 2014 CAF II Order* at n.143 (stating that ETCs may use affiliates to satisfy any of the ETC obligations).

[37] USTelecom Comments at 24-27.

forbearance of the ETC voice requirement, the Commission should deem the RDOF recipient's voice service to be an "adequate replacement" for the price cap carrier's voice service thus allowing the price cap carrier to follow the streamlined service discontinuance procedures under the Commission's rules in these geographic areas.[38]

C. A number of commenters have proposed continuing support for voice and broadband in areas that remain unclaimed after the auction, and during the transition between two high-cost-supported providers in a given area, to account for the time it will take for the RDOF winner to offer broadband service in an area.[39] These commenters raise legitimate concerns about the continued viability of the former CAF II model-based support recipient offering broadband in these areas absent a subsidy. AT&T looks forward to working with stakeholders and the Commission to develop appropriate transitional support mechanisms.

V. THE COMMISSION SHOULD ADJUST PERFORMANCE TIERS TO ENCOURAGE WIDESPREAD BROADBAND DEPLOYMENT

A. AT&T agrees with Sacred Wind that the Commission should add a 50/6 Mbps tier to its proposed three tiers.[40] Adding a 50/6 Mbps tier will make the auction more competitive, and will also encourage broadband deployment in a way that best balances the trade-off between the number of locations served and the speed at which they are served.[41]

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[38] *See* 47 C.F.R. §§ 63.71(f)(2)(i), 63.602

[39] *See* USTelecom Comments at 24-33; Windstream Comments at 22-24; ITTA Comments at 28-32; NTCA Comments, WC Docket Nos. 19-126, 10-90, at 34-35 (filed Sept. 20, 2019).

[40] *See* Sacred Wind Comments, WC Docket Nos. 19-126, 10-90, at 6 (filed Sept. 20, 2019).

[41] *See id.* at 6-7. Alternatively, the Commission could use 50/5 Mbps, which is consistent with the data it collects via the Form 477.

The Commission's proposed tiers and weighting strongly favors gigabit bids. Although expanding the availability of fiber-to-the-home is a laudable goal, it dramatically increases the cost to the program of providing service to a given location.[42] As USTelecom explained, the CAF II auction awarded more than twice as much funding per location to provide gigabit-level service than it did to provide 25/3 Mbps service.[43] This dramatic differential means that widespread deployment of gigabit-level service to rural areas cannot be met without the Commission increasing its support, perhaps significantly. An overemphasis on fiber is particularly unwarranted when the Commission's own data shows that "[a] substantial majority of residential customers"[44] do not subscribe to these higher speed services where they are available.[45] Similarly, a low percentage of the locations covered by CAF II auction winners was for gigabit-level service.[46]

AT&T opposes proposals to modify the tiers and weighting to over-emphasize the highest-speed services for the same reason. NTCA's proposal for a fourth tier at 500/100 Mbps, which will likely come at a significant premium over lower-speed services,[47] presents the same unjustifiable trade-off between speed and coverage. The same is true of ACA's proposal to

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[42] *See* USTelecom Comments at 23 & Table 1 (per-location CAF II auction funding awards of 1Gbps/500 Mbps service is $2,983.55, compared to $1,375.32 for 25/3 Mbps service).

[43] *See id.*

[44] 47 U.S.C. § 254(c)(1)(B).

[45] *Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion*, 2019 Broadband Deployment Report, 34 FCC Rcd 3857, ¶¶ 48-49, Figs. 12 & 13 (2019) ("*2019 Broadband Deployment Report*").

[46] *See* WISPA Comments at 13-14.

[47] *See* USTelecom Comments at 23 (showing that increased speed comes at an increased cost).

modify the weighting to further prioritize the higher-speed tiers.[48] AT&T's belief that the Commission should fund deployment of options valued by consumers also leads it to oppose NTCA's proposed bonus for symmetrical upload and download speeds.[49] Based on the Commission's own data, *consumers* do not require or prioritize symmetrical broadband.[50]

B. AT&T proposes a usage allowance of 400 GB per month for the new 50/6 Mbps tier as the starting point.[51] U.S. households have increased their broadband usage in recent years and 400 GB remains above well-above average household usage.[52] A 400 GB allowance is in line with the Commission's mandate to ensure rural areas receive service that is "reasonably comparable" between urban and rural areas.[53] AT&T supports ACA's proposal to update the allowance over the service term to account for changes in household broadband use,[54] but only if the Commission announces the increased usage levels prior to the auction. An approach that authorizes the Commission to increase the allowance during the service term but does not limit or announce the amount of the increase prior to the auction will not give providers the certainty they need to make informed bids. AT&T also opposes NTCA's proposal to increase

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[48] *See* ACA Comments at 8-9.

[49] *See* NTCA Comments at 14-15.

[50] *See generally, 2019 Broadband Deployment Report.*

[51] *But see* Sacred Wind Comments at 7 (proposing a usage allowance of the higher of 150 GB or the U.S. median).

[52] *See* ACA Comments at 13 & n.49.

[53] 47 U.S.C. § 254(b)(3).

[54] *See* ACA Comments at 14-15.

immediately usage allowances of the various tiers to 3TB and 5 TB.[55] These levels are simply not justified by the data on which NTCA relies, which shows average household use of 283 GB/month in the second quarter of 2019.[56]

C. The Commission should focus its investments on terrestrial-based technologies that can facilitate 5G deployments in rural areas and fulfill the Commission's mandate to provide reasonably comparable service to rural areas, both today and as the industry evolves.[57] Additionally, satellite technology frequently fails to provide the low latency required for voice service, and is likewise inadequate for the kind of technologies that make broadband offer such promise to rural areas, such as precision agriculture, long-distance learning, and telemedicine.[58] For these reasons, it is reasonable for the Commission to restrict Phase I eligibility to terrestrial-based providers, as some have suggested,[59] and open bidding to satellite providers only after the first phase identifies the hardest-to-serve locations where terrestrial-based broadband remains uneconomical, even with support.[60]

If the Commission does allow satellite providers to participate in the RDOF auction, AT&T agrees with USTelecom that the Commission should appropriately increase the high

[55] *See* NTCA Comments at 9.

[56] *See id.* at 5, 9-10.

[57] *See* USTelecom Comments at 20-24; Verizon Comments at 4-5.

[58] *See* USTelecom Comments at 21-22 (citing reports showing that current satellite performance is "almost certainly insufficient to deliver next generation communications").

[59] *See* Verizon Comments at 4-5.

[60] USTelecom Comments at 23.

latency weight to account for consumer and application developer demands for low latency.[61] The Commission's recent CAF II auction order modifying the testing requirement for satellite providers underscores the limited role that satellite broadband should play in using RDOF to develop rural broadband availability.[62]

VI. THE COMMISSION SHOULD ADOPT MODIFICATIONS THAT WILL INCREASE COMPETITION AND REJECT PROPOSALS THAT WILL DAMPEN PARTICIPATION

A. *The Commission Should Reject A Subscribership Requirement*. AT&T joins the consensus opposition[63] to the Commission's proposal to condition RDOF support on the provider meeting subscribership milestones as a way to address "theoretical concerns" that providers may not serve customers who request it.[64] The purpose of the RDOF is to support "broadband deployment in rural America,"[65] but a focus on subscribership changes the focus to broadband *adoption*, and financially punishes providers for making broadband available in rural areas where residents may choose not to use the offered service.[66] A requirement to achieve Commission-

[61] *See* USTelecom at Comments 21-24; Verizon Comments at 6; Windstream Comments at 11-13; ITTA Comments at 18-21. *See also* NTCA Comments at 10-12 (suggesting the high-latency tier millisecond requirement (not weight) should be lowered to 550 ms).

[62] *See Connect America Fund*, Order on Reconsideration, WC Docket No. 10-90, DA 19-911, ¶ 1 (rel. Sept. 12, 2019); *see also* ITTA Comments at 19-21; NTCA Comments at 12 (mentioning the *post hoc* debate regarding compliance with latency requirements).

[63] *See* USTelecom Comments at 36-41; NCTA Comments, WC Docket Nos. 19-126, 10-90, at 7-8 (filed Sept. 20, 2019); CenturyLink Comments at 17-20; ITTA Comments at 23-26; US Cellular Comments at 8-9; WISPA Comments at 21-26.

[64] *NPRM* at ¶¶ 40-42.

[65] *Id.* at ¶ 17.

[66] *See* USTelecom Comments at 36.

defined subscribership levels is a substantial disincentive to participating in RDOF, particularly where providing service remains financially challenging even with support.

A subscribership penalty is also entirely unnecessary in light of the Commission's proposal to require recipients to provide service meeting the relevant public interest obligations within ten business days of a request.[67] Particularly when paired with fund recipients' statutory obligations to advertise supported services throughout the service area,[68] a requirement to provide timely service upon request adequately addresses the theoretical concern that fund recipients might refuse to serve some rural residents.

B. *The Commission Should Consider Heightened Short-Form Requirements*. AT&T agrees with several commenters that the Commission should consider additional short form filing requirements to ensure that recipients of RDOF funds are up to the challenge of providing broadband in rural areas.[69] AT&T supports capping the total amount that a provider can bid for the ten-year support period to some portion of the provider's annual revenues,[70] and focusing additional scrutiny on providers seeking to bid on a large number of locations relative to their existing customer base.[71] On the other hand, the Commission should reject NTCA's short form

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[67] *See NPRM* at ¶ 44.

[68] *See* 47 U.S.C. § 214(e)(1)(B). If the Commission decides to adopt advertising guidelines as suggested by USTelecom, AT&T agrees with USTelecom that it is reasonable for RDOF recipients to advertise the availability of service in local newspapers and use direct mail. USTelecom Comments at 40.

[69] *See* Windstream Comments at 20; Verizon Comments at 8.

[70] *See* Windstream Comments at 20.

[71] *See* Verizon Comments at 8. While not a broadband-related recommendation, AT&T also agrees with USTelecom that the Commission should require short form filers to demonstrate how they will offer voice service throughout their RDOF-supported areas as soon as the Commission authorizes them for RDOF funding. USTelecom Comments at 28.

vetting proposals, which impose additional information requirements only on non-wireline-based technologies and are intended to create a barrier to participation by fixed wireless providers.[72]

C. *The Commission Should Reject Commenters' ETC-Related Proposals*. The Commission should reject Frontier's suggestion to require providers to obtain ETC designations *before* placing bids,[73] because it will discourage participation by bidders that are not already ETCs, and that are unwilling to undergo the burdensome designation process when there is no assurance they will win RDOF funds. Moreover, once they are designated an ETC, providers are subject to certain reporting and other obligations until they relinquish the designation, all of which imposes additional costs and burdens.[74] The Commission need not erect this barrier to participation when criteria such as experience, revenues, and customer size demonstrate that bidders are capable of serving.

On the other hand, AT&T opposes NCTA's proposal to forbear from requiring providers to be designated as ETCs.[75] NCTA has not demonstrated that its proposal satisfies the criteria for forbearance under 47 U.S.C. § 160(a). Rather, forbearance is not "consistent with the public interest," *id.* § 160(a)(3), because it undermines fair competition by allowing bids by providers that would not have to factor the costs imposed by ETC requirements into their bids. If the Commission accepts NCTA's argument that the ETC requirement does not further RDOF's

[72] NTCA Comments at 24-25.

[73] *See* Frontier Comments at 13.

[74] *See* Windstream Comments at 25-26 (describing the "burdensome reporting and other obligations" applicable to ETCs); 47 U.S.C. § 214(e).

[75] *See* NCTA Comments at 6-7.

goals,[76] it should do so in a competitively neutral way by forbearing from applying the ETC requirement to all existing high-cost recipients.

D. *The Commission Should Focus RDOF Support On Areas That Would Not Otherwise Be Served*. The Commission should ensure that RDOF funds are not used to build infrastructure that will be deployed even without RDOF support. AT&T therefore agrees with Verizon that the Commission should clarify that RDOF funds cannot be used to satisfy merger conditions or other regulatory obligations.[77] The Commission adopted such a rule in its *USF/ICC Transformation Order*, and should do the same here.[78] Similarly, AT&T agrees with NCTA that the Commission should coordinate with other agencies with rural broadband programs, such as the U.S. Department of Agriculture's Rural eConnectivity Pilot Program, to avoid overbuilding.[79]

E. *The Commission Should Further Support Broadband Deployment Through Pole Attachment Requirements*. AT&T supports CenturyLink's proposal to require municipal utilities and electric cooperatives that win RDOF funds to comply with the pole attachment requirements of 47 U.S.C. § 224.[80] Because these utilities are exempt from section 224, they are able to condition access to their poles on the payment of exorbitant fees wholly unrelated to their costs and on requirements entirely unrelated to the attachment, which delays and increases the cost of

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[76] *See NPRM* at ¶ 13.

[77] *See* Verizon Comments at 8.

[78] *See USF/ICC Transformation Order* at ¶ 146.

[79] *See* NCTA Comments at 4-5.

[80] *See* CenturyLink Comments at 23-27.

broadband deployment.[81] Municipal utilities and electric cooperatives that offer broadband services can also thwart competition by denying access to their poles to any competing services provider. The Commission should not allow municipal utilities and electric cooperatives to accept funds that are awarded for broadband deployment to undermine those same deployments and competition through unjust, unreasonable, and discriminatory pole access rates, terms, and conditions. The statutory exclusion of municipal utilities and electric cooperatives from section 224 does not preclude the Commission from imposing the same requirements on them to fulfill other federal objectives.[82]

VII. CONCLUSION

For the reasons provided above, AT&T urges the Commission to: use a targeted version of the Fabric to identify broadband serviceable locations and their associated geocoding in Phase I-eligible areas prior to the auction; increase bidders' certainty and confidence by holding them harmless for inaccuracies in the Commission's location data; reaffirm that a seventh year of funding remains available to all CAF II model-based support recipients; clarify that RDOF recipients' ETC voice obligations begin at the start of their funding period; add a 50/6 Mbps speed tier to encourage broadband deployment to as many locations as possible; adopt participation and performance requirements that encourage robust participation among all

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[81] *Id.* (describing "coercive tactics" to condition pole attachments on unrelated requirements, and resulting delay and cost increases).

[82] *See, e.g., Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order, 33 FCC Rcd 9088, n.253 (2018).

terrestrial-based technologies; and reject unnecessary barriers such as the 70 percent subscription requirement.

Respectfully Submitted,

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