FCC Issues Connect America Fund Order and Notices Affecting Tier 2 and Tier 3 LECs

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In the final days of the Genachowski era, the FCC's Wireline Competition Bureau continued to press forward to implement and refine the Connect America Fund ("CAF"). Late yesterday, the Bureau released a number of order and notices on various parts of the CAF that will affect both Tier 2 and Tier 3 local exchange carriers ("LECs") and their support.

First, to implement the CAF Phase II program in price cap LEC service areas, the Commission ordered the establishment of a process for determining eligible areas for Phase II support. After examining the National Broadband Map to determine whether census blocks are unserved and determining whether unsubsidized competitive providers in served blocks are offering both voice and broadband services, the Commission will put together a list of those census blocks it concludes lack unsubsidized providers and that are, therefore, potentially eligible for support. Such designations would then be open to challenges by both price cap LECs and unsubsidized competitors.

Additionally, the Commission issued a notice seeking comment on two potential frameworks to provide rate-of-return (Tier 3) carriers with additional incentives to more efficiently deploy broadband services. The first approach comes in response to rate-of-return carriers petitioning the Commission to make universal service fund support available to support broadband lines, including where consumers choose not to purchase voice service. To that end, the Commission seeks comment on a proposal by the rural carrier associations regarding changes to the existing framework to make those funds available for standalone broadband-service network infrastructure.

The second possible framework on which the Commission seeks comment would facilitate rate-of-return carriers' voluntary participation in CAF Phase II, which sets defined support amounts for a defined period of time with specific service deployment requirements and which may prove advantageous for some rate-of-return carriers. Recognizing that rate-of-return carriers already have the option of voluntary conversion to price cap regulation, the Commission seeks comment on what steps it could take to further these conversions and on others issues that may arise in the provision of Phase II support to those carriers.

And, finally, following its questioning in the original CAF Order whether the authorized rate of return for CAF participants should be lower than the current 11.25 percent, the Commission issued a staff report on the proper rate-of-return for LECs participating in CAF programs, concluding that the rate should fall between 8.06 and 8.72 percent. The Commission also issued an accompanying notice seeking comment on that report's analysis and recommendations.

You can expect the Bureau to continue to press forward on implementing the CAF, even with the Chairman exiting. In fact, we believe a new Phase I order for price cap LECs will be released very soon – possibly today.