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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10-90, 16-271; WT Docket No. 10-208; FCC 16-115]

Connect America Fund, Connect America Fund – Alaska Plan; Universal Service Reform – Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on various specific issues involved in implementing a process of eliminating the provision of high-cost support to more than one competitive Eligible Telecommunications Carrier (ETC) in the same geographic area. The Commission specifically seeks comment on how best to eliminate duplicative funding consistent with our universal service goals, should the evaluation of Form 477 data reveal areas where more than one carrier is receiving support for the provision of 4G LTE service. The Commission also seeks comment on how to address a carrier's performance obligations and support payments to the extent it loses funding eligibility as a consequence of the elimination of duplicative support.

DATES: Comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket No. 10-90, WC Docket No. 16-271 and WT Docket No. 16-208, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Federal Communications Commission’s Web Site: <http://fjallfoss.fcc.gov/ecfs2/> Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Because more than one docket number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: (202) 418-0530 or TTY: (202) 418-0432.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418-7400 or TTY: (202) 418-0484, Matthew Warner of the Wireless Telecommunications Bureau, (202) 418-2419, or Audra Hale-Maddox of the Wireless Telecommunications Bureau, (202) 418-0794.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Further Notice of Proposed Rulemaking (FNPRM) in WC Docket Nos. 10-90, 16-271 and WT Docket No. 16-208; FCC

16-115, adopted on August 23, 2016 and released on August 31, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th St., SW, Washington, DC 20554 or at the following Internet address:

https://apps.fcc.gov/edocs_public/attachmatch/FCC-16-115A1.docx

The Report and Order that was adopted concurrently with the FNPRM is published elsewhere in this issue of the Federal Register.

I. INTRODUCTION

1. In the concurrently adopted Report and Order, the Commission adopts an integrated plan to address both fixed and mobile voice and broadband service in high-cost areas of the state of Alaska, building on a proposal submitted by the Alaska Telephone Association. In February 2015, the Alaska Telephone Association (ATA) proposed a consensus plan designed to maintain, extend, and upgrade broadband service across all areas of Alaska served by rate-of-return carriers and their wireless affiliates. Given the unique climate and geographic conditions of Alaska, the Commission finds that it is in the public interest to provide Alaskan carriers with the option of receiving fixed amounts of support over the next ten years to deploy and maintain their fixed and mobile networks. If each of the Alaska carriers elects this option, the Commission expects this plan to bring broadband to as many as 111,302 fixed locations and 133,788 mobile consumers at the end of this 10-year term.

II. FURTHER NOTICE OF PROPOSED RULEMAKING

2. The Commission's policy has been to eliminate the provision of high-cost support to more than one competitive ETC in the same geographic area. Although there currently is no duplicative support for 4G LTE service in remote Alaska, the Commission has established a process in the Report and Order to identify the existence of any such overlap mid-way through the 10-year term, and to take steps to eliminate duplicative support levels in the second half of the 10-year term of the Plan. This FNPRM seeks comment on various specific issues involved in implementing that process.

3. In the concurrently adopted Report and Order, the Commission adopts, for purposes of identifying where duplicative support is occurring, a definition that includes those areas where there is

subsidized 4G LTE service provided by more than one carrier. The Commission will identify such areas and evaluate the extent of overlap, if any, based on the Form 477 data filed by the carriers in March, 2021, which will represent deployment as of December 31, 2020.

4. The Commission seeks comment on how best to eliminate duplicative funding consistent with our universal service goals, should the evaluation of that Form 477 data reveal areas where more than one carrier is receiving support for the provision of 4G LTE service. How should the Commission identify the relevant amount of support to attribute to any overlap area? Once the amount of support is identified, what mechanism should the Commission apply to eliminate the duplicative funding? For example, should the Commission eliminate support to all carriers receiving duplicative support in any given area? To the extent the Commission continues to provide support to one provider in any such area, how should the amount of support, and the recipient of that support, be determined? For example, should the Commission award support by auction in areas receiving duplicative support? Alternatively, should it award support to whichever provider serves the larger service area? If so, how should the relevant service area be defined? Should the Commission adopt an approach that would award support for any overlap area to the carrier that builds out 4G LTE in an area first? Are there other mechanisms the Commission could use to eliminate any identified overlap in 4G LTE supported service? If any of these or other proposals would result in an area being served by one subsidized provider and one unsubsidized provider, how should the Commission address that, consistent with our general policy of not providing funding where there is an unsubsidized provider?

5. Given the distinct needs and unique nature of Alaska, and the extent to which it lags much of the rest of the Nation in 4G LTE deployment, the Commission proposes that any funds no longer provided as a result of the elimination of duplicative support be used to support other mobile services in high-cost areas of Alaska. The Commission seeks comment on this proposal and, more specifically, on how any affected funds should best be used.

6. The Commission also seeks comment on how to address a carrier's performance obligations and support payments to the extent it loses funding eligibility as a consequence of the

elimination of duplicative support. In such instances, the Commission proposes that a carrier amend its performance plan and that it should neither be required nor permitted to include the population in the relevant overlap area in order to meet its performance commitments. The Commission also seeks comment on whether, for carriers losing support, they should provide a phase down of support for such carriers, such as over two or three years.

7. As discussed above, the Commission will not evaluate whether there is any duplicative support or make adjustments to support payments until year five of the Alaska Plan. Given the important role of high-cost support in bringing mobile broadband service to remote Alaska, however, the Commission thinks that it is critical to engage in this process now in order to ensure a smooth transition should any modifications to the Plan be necessary to address duplicative support. Commenters are invited to address the proposals set forth above. In addition, are there other issues or alternatives that the Commission should consider in defining or eliminating duplicative competitive ETC support in Alaska?

III. PROCEDURAL MATTERS

8. The FNPRM contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the proposed information collection requirements contained in this document, as required by the PRA. In addition, pursuant to the Small Business Paperwork Relief Act, the Commission seeks specific comment on how they might further reduce the information collection burden for small business concerns with fewer than 25 employees.

9. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Further Notice of Proposed Rulemaking (FNPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM provided on the first page of this document. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business

Administration (SBA). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the Federal Register.

10. The FNPRM is needed to ensure fiscal responsibility and maximize limited support for the support going to ensure universal service in remote areas of Alaska. The FNPRM seeks comment about duplicative support under the Alaska Plan and how such support should be addressed. The FNPRM proposes that duplicative areas be defined as those areas where there is subsidized 4G LTE service provided by more than one carrier in a service area and proposes that this would be determined by using March 2021 Form 477 data. The FNPRM seeks comment on options for addressing this issue during the course of the 10-year support period under the Alaska Plan and seeks comment on eliminating duplicative support in years six through ten of the Alaska Plan, as adopted (e.g., from January 1, 2022 through December 31, 2026).

11. The legal basis for any action that may be taken pursuant to the FNPRM is contained in sections 1, 2, 4(i), 5, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 152, 154(i), 155, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 1302.

12. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

13. **Total Small Entities.** Our proposed action, if implemented, may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA, which represents 99.7% of all

businesses in the United States. In addition, a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 2007, there were approximately 1,621,215 small organizations. Finally, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” Census Bureau data for 2011 indicate that there were 90,056 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 89,327 entities may qualify as “small governmental jurisdictions.” Thus, the Commission estimates that most governmental jurisdictions are small.

14. Permit-But-Disclose. The proceeding that this Report and Order and Further Notice of Proposed Rulemaking initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that

proceeding and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

15. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i), 5, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 1302 that this Further Notice of Proposed Rulemaking IS ADOPTED.

FEDERAL COMMUNICATIONS COMMISSION

Gloria J. Miles,
Federal Register Liaison Officer,
Office of the Secretary

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