

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D. C.**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

**COMMENTS OF COMMISSIONER SCOTT T. RUPP**

Commissioner Scott T. Rupp of the Missouri Public Service Commission, on his own accord, submits comments in response to the Federal Communications Commission’s (FCC’s) Further Notice of Proposed Rulemaking (FNPRM) released June 10, 2014.<sup>1</sup> The FCC’s FNPRM seeks feedback on issues related to Connect America Fund (CAF) Phase II funding. Rupp’s comments make the following recommendations:

- Rural and urban areas should have comparable broadband service.
- Flexibility in meeting broadband deployment obligations is appropriate.
- The challenge process must ensure that consumers actually have access to qualifying voice and broadband service.
- Increased carrier accountability for Connect America funding.

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<sup>1</sup> *Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking*; WC Docket No. 10-90 et al In the Matter of Connect America Fund; FCC 14-54; adopted April 23, 2014 and released June 10, 2014. (FCC FNPRM)

## **Rural and Urban Areas Should Have Comparable Broadband Service**

Rupp supports efforts to reevaluate the speed benchmark for broadband service based on comparisons of broadband speed availability between rural versus urban areas. Such comparisons are important considerations in ensuring consumers in rural areas are not left behind. The FCC points out state broadband data suggests significant differences in broadband speed availability in urban versus rural areas. The FCC is proposing to specifically increase the existing downstream speed standard from 4 Mbps to 10 Mbps; however, the FCC appears to reserve judgment on whether to increase the existing upstream speed standard of 1 Mbps.<sup>2</sup>

Rupp supports efforts to ensure rural and urban areas have similar technology opportunities by increasing the required download speed to 10 Mbps. It remains a worthy goal to structure the CAF to ensure rural areas will have comparable broadband service as urban areas but to make the CAF program successful changes may be required to the terms to recognize the increased cost and complexity inherent in the increased speed requirement and to encourage build out to these otherwise uneconomic areas.

## **Flexibility in Meeting Broadband Deployment Obligations Is Appropriate**

The FCC is soliciting feedback on whether some flexibility should be allowed in meeting broadband deployment obligations.<sup>3</sup> Rupp supports reasonable flexibility that allows efficient network design rather than overly rigid mandates that may discourage

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<sup>2</sup> FCC FNPRM; ¶138-141.

<sup>3</sup> FCC FNPRM; ¶162-172.

participation. The flexibility should include both the ability for providers to ultimately build to less than 100% of funded locations with a commiserate reduction in support as well as the ability to substitute any high cost unserved location for an identified funded location.<sup>4</sup> These flexible arrangements ensure broadband will be reasonably deployed in a cost effective and efficient manner to benefit the greatest number of households.

The FCC also seeks comment on whether CAF Phase II funding could be used to serve unserved locations within census blocks identified as partially served.<sup>5</sup> This flexibility is appropriate because it will help bring broadband service to isolated unserved areas of a census block that would otherwise be classified as a fully served. Rupp does not believe it is necessary to limit such flexibility to 5% of locations as suggested by the FCC.<sup>6</sup> If the FCC does provide such flexibility then Rupp recommends a requirement that a Phase II recipient must publically identify the locations intended for deployment.

The FCC seeks comment on whether for a carrier accepting a state-level commitment the five year funding term should be extended for an additional two, or more, years if the broadband downstream speed is increased from 4 Mbps to 10 Mbps.<sup>7</sup> Rupp supports an extension of the funding and the build-out period for the state-level commitment to ten years. The useful life of facilities used to provide broadband service to uneconomic areas will extend far beyond the funding period. Those carriers that accept the state-level commitment will be making a significant investment and

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<sup>4</sup> If a company is allowed to deploy broadband service to less than 100% of funded locations then the FCC anticipates a company's CAF support will be correspondingly reduced in a manner that is yet to be determined. FCC FNPRM ¶165-166.

<sup>5</sup> The CAF and National Broadband Map classify partially served census blocks as fully served.

<sup>6</sup> FCC FNPRM; ¶167.

<sup>7</sup> FCC FNPRM ¶148.

undergoing an extensive deployment process in the rural areas of Missouri that would otherwise be uneconomic to serve and unlikely to receive broadband in the foreseeable future perhaps even under the competitive bidding process. Therefore, a reasonable matching of the funding and required buildout period is critical to the successful introduction of new and faster broadband to these areas and Rupp believes that ten years best achieves that balance.

### **The Challenge Process Must Ensure the Consumers Truly Have Access to Voice and Broadband**

The FCC should apply the same voice and broadband service requirements, including the 10 Mbps download speed requirement, when determining whether census blocks are eligible for CAF II support based on the claimed presence of an unsubsidized competitor. Rupp fully agrees that CAF II support should not be used to support the overbuild of existing wireline networks that provide voice and broadband service that meets the standards required of CAF II recipients. However, the challenge process conducted by the FCC, must be rigorous and required evidence that the service is offered and available before areas are deemed ineligible for CAF II support. This can be done without an additional challenge process as the current challenge process can be conducted to reasonably confirm whether the National Broadband Map designations are accurate.

### **Increase Carrier Accountability for Connect America Funding**

In general, Rupp supports efforts to increase accountability and oversight for all aspects of the federal universal service fund.<sup>8</sup> Rupp supports the FCC's proposal to require a company receiving CAF support to annually certify the company's broadband

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<sup>8</sup> The MoPSC recently revised the annual filing requirements for all eligible telecommunications carriers effective April 30, 2014. These requirements are identified in 4 CSR 240-31.130(3).

rates in rural areas are comparable to rates charged in urban areas. Such certification will help ensure rural consumers have affordable broadband service rates.

The FCC is also proposing to modify its rules to address situations whereby a high-cost recipient fails to submit its annual report (Form 481) or fails to be annually certified in a timely manner. The FCC's proposals appear reasonable in the sense the proposals contemplate a grace period if such delinquent filings appear to be an isolated incident and are rectified within five days.

The FCC is seeking input on whether a provider found to be in noncompliance either through an audit or some other determination should be given an opportunity to improve performance prior to withholding support or whether the provider should face quickly-increasing support reductions. Rupp supports the FCC's latter alternative because it provides a greater incentive for a carrier to monitor compliance obligations and remedy any instance of noncompliance in a timely manner. Rupp supports applying these same accountability proposals to recipients of Mobility Fund Phase II support.<sup>9</sup>

Respectfully submitted,



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Dated: August 5, 2014

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<sup>9</sup> FCC FNPRM; ¶331: "We also seek comment on whether we should apply any of our proposals described above for reducing support for non-compliance with service obligations to recipients of Mobility Fund Phase II support..."