

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, DC 20554**

In the Matter of	)	
	)	
	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58

**COMMENTS OF USTELECOM—THE BROADBAND ASSOCIATION**

USTelecom – The Broadband Association<sup>1</sup> submits these comments in response to the Public Notice issued by the Wireline Competition Bureau seeking comment on the merits of extending the limited waiver of the letter of credit rules for Auction 903 (“CAF II Auction”) support recipients beyond December 31, 2022.<sup>2</sup> USTelecom supports continued relief for CAF II Auction for the same reasons that it supported the original grants of such relief in 2020<sup>3</sup> and 2021.<sup>4</sup>

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<sup>1</sup> USTelecom is the nation’s leading trade association representing service providers and suppliers for the broadband innovation industry. Its diverse member base ranges from large publicly traded communications corporations to small companies and cooperatives – all providing advanced communications and broadband services to hundreds of millions of customers around the world.

<sup>2</sup> Wireline Competition Bureau Seeks Comment on Extending Letter of Credit Rules for Connect America Fund Phase II Auction (Auction 903), Public Notice, WC Docket Nos. 10-90, 14-58, AU Docket No. 17-182, DA 22-879 (Aug. 22, 2022) (Public Notice).

<sup>3</sup> See Connect America Fund, et al., Order, 35 FCC Rcd 6556 (WCB 2020) (2020 Letter of Credit Waiver Order).

<sup>4</sup> See Connect America Fund, et al., Order, DA 21-1502 (WCB 2021) (2021 Letter of Credit Waiver Extension Order).

As suggested in the Public Notice,<sup>5</sup> USTelecom members do continue to experience both pandemic related supply chain delays and workforce shortages that have impeded their ability to conduct business as usual.<sup>6</sup> And while some conditions have improved, historic levels of inflation have driven costs far beyond normal levels. Although the ongoing pandemic, supply chain delays, workforce shortages, and skyrocketing inflation are reason enough to extend the requested relief, USTelecom continues to find that it is also equitable and good policy to conform the revisions to the letter of credit requirements adopted for the RDOF program to recipients of CAF II Auction, not only by extending the current relief but also by acting on the CAF II Coalition Petition<sup>7</sup> and permanently aligning the rules.

The relief as requested would remove the far more onerous requirements required for CAF II Auction support recipients in favor of the less restrictive obligations of RDOF auction winners, establishing parity amongst program participants. Not providing further relief or aligning program rules places CAF II Auction support recipients in the position of carrying an extra debt load which if reduced would allow those entities to use the support received for the provision of voice and broadband service to unserved rural Americans rather than to pay fees on letters of credit to financial institutions.

USTelecom was one of the primary advocates pointing to the onerous and counterproductive nature of maintaining overly stringent letter of credit obligations.<sup>8</sup> We were

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<sup>5</sup> Public Notice at 1.

<sup>6</sup> See Comments of USTelecom – The Broadband Association, WT Docket No. 21-195 (Jun. 10, 2021).

<sup>7</sup> Petition for Rulemaking of the CAF II Coalition (Mar. 10, 2020) (CAF II Petition).

<sup>8</sup> See *e.g.*, Comments of USTelecom – The Broadband Association, WC Docket Nos. 19-126 and 10-90, at 45 (Sep. 20, 2019); *see also* Letter from Patrick R. Halley, Senior Vice President, Policy & Advocacy USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 19-126 and 10-90, at 2 & Attachment (Jan. 20, 2020).

joined by other industry groups advocating to the Commission that adopting onerous letter of credit obligations would impact the ability to hold a competitive and successful RDOF auction.<sup>9</sup> The Commission should extend the current relief and ultimately make it permanent because, regardless of the ongoing pandemic, these kinds of rules divert funds intended for deployment of new service to the payment of substantial bank fees. They also constrain the ability of recipients to borrow funds to expedite delivery of supported voice and broadband services.<sup>10</sup> When adopting the rules for the RDOF auction, the Commission was willing to modify its proposed rules based on the downsides of both the unnecessary bank fees and the impact of obtaining and maintaining a letter of credit that is treated as a contingent liability on the books of the support recipients, limiting the recipient's borrowing power. Therefore, it is logical that participants in similar prior auctions should be afforded the same benefit.

USTelecom continues to agree that the Commission's decision in the RDOF Report and Order, "that the letter of credit rules, as originally proposed, would impose a disproportionate financial burden on support recipients and result in less funding going directly to broadband deployment."<sup>11</sup> is the right policy decision and that such changes to the letter of credit rules "significantly improve the agency's approach, [would] reduce disproportionate burdens...and it would serve the public interest to apply them immediately for the benefit of entities that are

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<sup>9</sup> See e.g., Joint Letter from INCOMPAS, NCTA, NRECA, NTCA, USTelecom, WISPA and WTA to Chairman Pai and Commissioners O'Rielly, Carr, Rosenworcel and Starks, FCC, WC Docket Nos. 19-126 and 10-90 (Jan. 16, 2020).

<sup>10</sup> See *Id.*

<sup>11</sup> See *In the Matter of Rural Digital Opportunity Fund, Connect America Fund, et al.*, Report and Order, 35 FCC Rcd. 686, 731, para 101 (Jan. 30, 2020).

receiving CAF Phase II support.”<sup>12</sup> USTelecom also agrees that this statement is true in the case of all recent auction support recipients, given their similar set of circumstances.

USTelecom members appreciate the great strides the Commission has taken to ensure its programs operate efficiently. The Commission should extend the relief granted and act on the CAF II Petition to make such relief permanent for the reasons described herein.

Respectfully submitted,

USTelecom—The Broadband Association

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<sup>12</sup> See Request for Waiver of the CAF II Coalition, WC Docket No. 10-90 (Mar. 10, 2020) at 4.