

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337

**COMMENTS OF  
THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS  
OFFICERS AND ADVISORS AND THE NEW AMERICA FOUNDATION’S OPEN  
TECHNOLOGY INITIATIVE**

**I. INTRODUCTION**

The National Association of Telecommunications Officers and Advisors (“NATOA”) and the New America Foundation’s Open Technology Initiative (“NAF”) (collectively “Commenters”) respectfully submit these comments to the Federal Communications Commission (“Commission”) in response to the Commission’s Public Notice, FCC 10-58, released Apr. 21, 2010 (the “Notice”) that included a Notice of Inquiry (NOI) and Notice of Proposed Rulemaking (NPRM) on changes to the Universal Service Fund (USF) and the creation of the Connect America Fund (CAF). Commenters files these comments to urge the Commission to promote broadband deployment regardless of the source and to ensure that local, state, and tribal governments, as well as non-profit entities, are eligible for federal assistance in providing broadband services. To this end, in the context of the Connect America Fund, Commenters urge the Commission to seek a broadband funding mechanism similar to the Broadband Technology Opportunity Program (BTOP) and the Broadband Initiatives Program

(BIP) overseen by the National Telecommunications and Information Administration (NTIA) and the Rural Utility Services (RUS) respectively.

A review of the NOI and NPRM shows that, unlike under the BTOP and BIP programs, networks operated by local, state, and tribal governments would not be eligible to receive funding under the CAF. Although the funding of local government networks under the CAF would be difficult under current statutory language, we submit these comments to urge the Commission to work with Congress to promote this simple policy: broadband deployment, from whatever source, should be promoted; and wherever the federal government creates a mechanism for broadband deployment, eligibility should not be limited but should always include local, state, and tribal governments, as well as non-profit private entities.

**II. THE BTOP AND BIP PROGRAMS HAVE BEEN SUCCESSFUL AND THE COMMISSION SHOULD SEEK TO USE THE CONNECT AMERICA FUND TO EMULATE THEIR INCLUSIVE, INNOVATIVE MODEL.**

The BTOP and BIP programs were established by Congress in the American Recovery and Reinvestment Act (ARRA) – the same law which directed the Commission to develop a National Broadband Plan (NBP) that was the catalyst for the development of the CAF. In the BTOP and BIP programs, Congress saw the potential for economic growth that could be spurred by broadband deployment. The programs, administered by NTIA and RUS, correctly realized that the entity deploying the broadband, whether a private for-profit carrier or a public entity, is irrelevant to the need for expanding broadband availability.

Numerous local, regional, state, and tribal entities applied for funding under BTOP and BIP to build and interconnect high-bandwidth broadband networks. The funded projects will increase broadband availability at schools, libraries, community colleges, job training centers, hospitals, government buildings, emergency and public safety facilities, and other key

community anchor institutions. They will deliver service to numerous unserved and underserved Americans in rural areas, as well as in areas of urban and suburban poverty and need.

BTOP and BIP's open eligibility criteria should be considered a great success even with respect to those public and non-profit projects that are not funded – the open eligibility resulted in extensive, innovative planning and creativity and the creation of new, innovative partnerships among public and private entities; among state, local, and tribal governments; and among for-profit and non-profit organizations. Many of the projects that were not funded will nonetheless be built, albeit over a longer time period than if they had received ARRA funding. In any event, the open eligibility criteria of BTOP and BIP have left the nation far better off, with respect to both funded and un-funded projects, than would be true had eligibility been exclusively limited to traditional telecommunications carriers.

Indeed, in areas where private sector return on investment (ROI) is least likely or lowest, public or non-profit entities may be the only or best choice for bringing broadband to the community.<sup>1</sup> Such low-ROI areas may include rural areas with very low population – or may include more densely populated areas where average incomes (and disposable income for broadband adoption) are at their lowest. In such areas, even the prospect of a federal subsidy may not be sufficient to entice a for-profit carrier to invest; rather, the for-profit sector is likely to target the most potentially-lucrative of the unserved areas, seeking to maximize ROI. It is local, state, and tribal government, as well as non-profits, that are most likely to specifically target the

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<sup>1</sup> See e.g. Gregory Rose, "Wireless Broadband and the Redlining of Rural America," New America Foundation (April 2010), available at <http://wirelessfuture.newamerica.net/sites/newamerica.net/files/policydocs/Wireless%20Broadband%20and%20the%20Redlining%20of%20Rural%20America.pdf>. Results from paper suggest "that 8-to-10 percent of rural America is likely to be permanently redlined by the incumbent wireless broadband providers because in those areas population density, median household income, and levels of commercial activity are too small to permit efficient aggregation of demand..."

neediest areas that are least served – not despite the lack of financial ROI but precisely because of that lack—because communities step into the gap that the for-profit market fails to fill.<sup>2</sup>

### **III. THE COMMISSION SHOULD WORK WITH CONGRESS TO ENSURE THAT BROADBAND IS BEING DEPLOYED AS EFFICIENTLY AS POSSIBLE.**

Commenters’ overarching policy when it comes to government encouragement of broadband deployment is that the federal government should facilitate broadband deployment using whatever entity will most effectively and efficiently move our nation toward ubiquitous high-bandwidth broadband. Through the CAF, the Commission seeks to transform the legacy High-Cost Universal Service program to promote the deployment of broadband to areas that are currently unserved. In this case, the Commission believes that “unserved” areas are generally rural areas where the market does not justify broadband investment. Commenters support the goals of the Commission through the CAF and we understand the statutory constraints on what reform is possible without Congressional action. However, we urge the Commission to take reform as far as it can on its own and to ask Congress for the power to take the steps the Commission cannot currently take on its own.

Ultimately, Commenters believe that the goal of the CAF program should be the continued federal government investment in broadband deployment when such investment is efficient to meet our nation’s growing broadband needs. As such, we believe that the highest value that the CAF program can ultimately serve would be to adopt the successful open eligibility model of the BTOP and BIP programs. In the long run, the Commission should seek federal investment in broadband in any manner that is most efficient, regardless of the entity

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<sup>2</sup> See e.g. The Coeur D’Alene tribal ISP and the Southern California Digital Tribal Village. Traci Morris and Sascha Meinrath, “New Media and Technology Use in Indian Country,” New America Foundation, available at [http://oti.newamerica.net/sites/newamerica.net/files/policydocs/New\\_Media\\_Technology\\_and\\_Internet\\_Use\\_in\\_Indian\\_Country.pdf](http://oti.newamerica.net/sites/newamerica.net/files/policydocs/New_Media_Technology_and_Internet_Use_in_Indian_Country.pdf).

seeking to deploy broadband. In many cases, private telecommunications carriers may be best positioned to deploy broadband in a way that will best serve an area, while in others,, entities such as local, state, or tribal governments, regional authorities, or non-profit organizations, may be best suited to improve broadband availability.

#### **IV. CONCLUSION**

The Commission is correct to seek reform to the High-Cost Universal Service program. However, we believe that the reforms proposed should merely be a first step in the creation of a permanent broadband funding mechanism operated by the Commission. Ultimately, the Commission and Congress should seek to perpetuate the success of the BTOP and BIP programs and continue to promote the deployment of broadband in the most efficient way possible regardless of what entity is seeking the deployment. As a matter of principle, wherever the federal government creates a mechanism for broadband deployment, eligibility should not be limited but should always include local, state, and tribal governments, as well as non-profit private entities.

Respectfully submitted,

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