

## VPS Consulting Memo

### **Overview of Circulated FCC Order:**

### **Connect America Fund – Report and Order, FNPRM and Order on Reconsideration – WC Docket 10-90**

## **Summary**

### **Overview**

The Federal Communications Commission (“Commission”) has released for circulation a draft Report and Order, Further Notice of Proposed Rulemaking and Order on Reconsideration on the Connect America Fund (“FCC November 2018 Draft Order and NPRM”) in response to the comments the Commission received on the high-cost fund budget and modifications to the traditional legacy mechanisms. The Commission believes this order will help close the digital divide between broadband availability in rural and urban areas.

Earlier this year in the 2018 Rate of Return Reform Order and NPRM<sup>1</sup>, the Commission sought comment on several reforms to assist in the further deployment of broadband in rural areas. Some of the specific areas included: a new opportunity for legacy providers to elect model-based support, limits on capital and operating expenses, auction process for substantial competitive overlap and other options for simplifying and modernizing legacy support.

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<sup>1</sup> Connect America Fund et al., WC Docket No. 10-90 et al., Report and Order, Third Order on Reconsideration, and Notice of Proposed Rulemaking, FCC 18-29 (rel. Mar. 23, 2018) (2018 Rate-of-Return Reform Order and NPRM).

## What the Report and Order Proposes:

### Increased Offer for Existing A-CAM Carriers

A-CAM carriers<sup>2</sup> will be given the opportunity of a revised A-CAM offer (to be known as Revised A-CAM I), which will be increased support up to \$200 per location per month along with increased deployment obligations. Carriers that accept the revised offer will be required to deploy broadband in speeds of at least 25/3 Mbps to their fully funded locations based on customer density, as follows: 50% for low density, 65% for medium density, and 85% for high density.<sup>3</sup> Due to the increased deployment obligations, the Commission is establishing a new 10-year term from January 1, 2019 to December 31, 2028. Carriers will be required to meet the previously agreed upon deployment milestones for 10/1 service and will have similar deployment milestones for 25/3 service (see chart below).<sup>4</sup>

Year	25/3 Deployment Milestone
Year 1 (2019)	0%
Year 2 (2020)	0%
Year 3 (2021)	0%
Year 4 (2022)	40%
Year 5 (2023)	50%
Year 6 (2024)	60%
Year 7 (2025)	70%
Year 8 (2026)	80%
Year 9 (2027)	90%
Year 10 (2028)	100%

Carriers will have 30 days following the public notice announcing the increased offer and deployment obligations to accept the new offer.<sup>5</sup>

### New Model Offer for Legacy Carriers

This new offer, to be known as A-CAM II<sup>6</sup> will be open to all carriers, other than existing A-CAM carriers and Alaska Plan carriers<sup>7</sup>. The model will provide up to \$200 per location per month<sup>8</sup>. Some of the key parameters to the new model offer include the following<sup>9</sup>: the offer will include census blocks where FTTP or cable have already been deployed by the incumbent; will exclude locations served by an unsubsidized competitor currently offering voice

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<sup>2</sup> A-CAM I carriers who accepted less model based support than legacy support (aka glide path carriers) are currently receiving \$200 per location per 2016 Rate of Return Reform Order. ¶17

<sup>3</sup> ¶23

<sup>4</sup> ¶27

<sup>5</sup> ¶28

<sup>6</sup> ¶32

<sup>7</sup> ¶37

<sup>8</sup> ¶35

<sup>9</sup> ¶42-51

and at least 25/3 Mbps broadband, utilizing the most recent 477 data with no option for a challenge process; and implements a Tribal Broadband Factor to increase the support for locations on Tribal lands to \$213.12 per location. The new model offer will carry a 10-year term, also beginning January 1, 2019 with deployment obligations needing to be met by December 31, 2028.<sup>10</sup> Carriers electing the new model offer will be required to meet deployment obligations of 25/3 Mbps to all fully funded locations<sup>11</sup> and will have deployment milestones as shown in the chart below.<sup>12</sup>

Year	25/3 Deployment Milestone
Year 1 (2019)	0%
Year 2 (2020)	0%
Year 3 (2021)	0%
Year 4 (2022)	40%
Year 5 (2023)	50%
Year 6 (2024)	60%
Year 7 (2025)	70%
Year 8 (2026)	80%
Year 9 (2027)	90%
Year 10 (2028)	100%

Carriers will have 45 days following the public notice announcing the new offer and deployment obligations to accept the new offer.<sup>13</sup>

### Cost Based Support – Legacy Rate of Return Carriers

The Commission is addressing several concerns raised by the industry regarding the cost based support for legacy rate of return carriers. The following are items to be adopted by the order:

1. Legacy Budget – Budget will be based on 2018 uncapped claims (approx. \$1.42B annually)<sup>14</sup>, annual increase by an inflation factor (GDP-CPI)<sup>15</sup>, and a one-time increase of 7% or more depending on offer acceptance by glide path carriers.<sup>16</sup> The Commission will revisit the budget after 5 years.<sup>17</sup>
2. Budget Control Mechanism – Refunds will be given for support reductions between July 1, 2018 and December 31, 2018, and the refund may be a lump sum or over a period of time depending on funds available. No reductions will be made to support from January 1, 2019 through June 30,

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<sup>10</sup> ¶53

<sup>11</sup> ¶59

<sup>12</sup> ¶62

<sup>13</sup> ¶64

<sup>14</sup> ¶74

<sup>15</sup> ¶83

<sup>16</sup> ¶86

<sup>17</sup> ¶92

2019.<sup>18</sup> On a go-forward basis, the budget control mechanism adjustment will be calculated using a pro-rata basis only since the per-line reduction will be eliminated.<sup>19</sup>

3. Deployment Obligations – The increased CAF BLS support also comes with increased broadband speed obligations, which will increase from 10/1 Mbps to 25/3 Mbps. Existing deployment obligations will need to be reset by recalculating the 5-year forecasted CAF BLS support and increasing the minimum speed standard. The deployment obligations will begin as of the effective date of this order until December 31, 2023. Carriers will be allowed to count any location they have deployed 25/3 Mbps going back to May 25, 2016. As a result of this change, the order states all legacy carriers will be subject to deployment obligations to be determined based on a percentage of the CAF BLS, as follows:

<b>25/3 Deployment (Recent 477 Data)</b>	<b>Percent of 5 Yrs. Forecasted Support</b>
Less than 20%	35%
20% - 39.9%	25%
40% or Greater	20%

All legacy carriers will be required to report locations with access to 25/3 Mbps to the HUBB portal.<sup>20</sup>

4. Minimum Threshold of Support – The threshold will be based on NECA’s recalculated 5-year forecasted CAF BLS support discussed in the deployment obligations above. Any support requested above the threshold may be subject to the budget control mechanism.<sup>21</sup>
5. Elimination of the Capital Investment Allowance – The Commission has determined the Capital Investment Allowance (CIA) is a burden and the inefficiencies outweigh any benefit. Therefore, the CIA will be eliminated.<sup>22</sup>
6. Monthly Per-Line Limit – The \$250 monthly per-line limit on support will be reduced in a two-step process: 1) reduce to \$225 effective July 1, 2019 through June 30, 2021, and 2) further reduce to \$200 on July 1, 2021.<sup>23</sup>
7. 100% Overlap Process – The Commission eliminated the current 100% overlap process and proposes to replace it with a competitive auction process. FCC Form 477 data will identify the areas that are entirely or almost entirely overlapped with voice and 25/3 Mbps broadband by an unsubsidized competitor. The Commission is seeking further comment on a variety of issues, including how to determine which study areas are almost entirely overlapped, before implementing rules on a new process.<sup>24</sup>
8. Line Count Filings – CAF BLS recipients will be required to change the filing date for the FCC Form 507 from July 31<sup>st</sup> to March 31<sup>st</sup> for reporting the previous Dec 31<sup>st</sup> data.<sup>25</sup> A-CAM and Alaska

<sup>18</sup> ¶78

<sup>19</sup> ¶113

<sup>20</sup> ¶99-107

<sup>21</sup> ¶90

<sup>22</sup> ¶111

<sup>23</sup> ¶120

<sup>24</sup> ¶139-141

<sup>25</sup> ¶144

Plan recipients must now file the annual Form 507 on July 31<sup>st</sup> reporting the previous Dec 31<sup>st</sup> data.<sup>26</sup>

9. Updating the Uniform System of Accounts to Incorporate New Lease Accounting Standards – The Commission will amend Part 32 rules to conform with FASB lease accounting standards. These amendments will have no impact on rates or support. For operating leases longer than one year, lessees will be required to record the net present value of the lease payments and recognize the lease expense as a straight-line amortization over the life of the lease. Lessors will be required to recognize a long-term lease receivable in account 1410 and deferred payments in account 4300. For finance leases (formerly known as capital leases), there will be no changes to the rules except for the name change. Due to 6-month notification requirements, these amendments to the rules will not be adopted until mid-2019 and will not be effective until January 1, 2020.<sup>27</sup> However, the Commission will grant a waiver or Part 32 to cover the time period between now and January 1, 2020, for any carrier that must comply with the FASB lease accounting standards before then.

## What the Further Notice of Proposed Rulemaking Seeks:

### Competitive Overlap Auction Process

With the elimination of the current 100% overlap process, the Commission is seeking comments on how the decision should be implemented as well as how the auction should be designed. The primary areas in which comments are being sought include:

- Affected Study Areas – percentage to be used for determining overlap
- Eligible Areas – census geography
- Public Interest Obligations – performance tiers and latency
- Participant Eligibility – entity qualifications
- Auction Design – format of the auction

### Conversion to Broadband-Only

The Commission has established a budget increase factor of 7% to address the increase from carriers converting lines to a broadband-only service. Comments are being sought on whether limits should be adopted on the number of converted lines that a carrier would be able to seek support. The Commission is also seeking comment on whether there are any other methods to be considered in addressing the conversion to broadband-only lines.

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<sup>26</sup> ¶146

<sup>27</sup> ¶150-160

## Next Steps and Additional Information

Vantage Point Solutions (VPS) will be paying close attention to the December FCC Open Meeting to ensure the items proposed in the Report and Order are approved or modified. We have studied the order and are positioned to run the impacts that these changes may have on our clients.

If you wish to review the full FCC Order on circulation, the link is here for your reference:

<https://docs.fcc.gov/public/attachments/DOC-355212A1.pdf>

For additional information or if you would like VPS guidance, please contact these members of the Vantage Point Solutions consulting team:

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