



# COMMONWEALTH OF MASSACHUSETTS

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May 17, 2016

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

### Notice of Ex Parte Filed Via ECFS

#### *In re Connect America Fund, WC Docket No. 10-90*

Dear Ms. Dortch:

I write to request respectfully that the Federal Communications Commission (“FCC”) give special consideration to eligible recipients of Broadband Technology Opportunities Program (“BTOP”) funding and other state-funded broadband projects in the upcoming Connect America Fund (“CAF”) Phase II competitive auction. With its CAF Phase II auction, the FCC has the opportunity to tailor the genesis and future of broadband service in currently unserved areas. By helping to level the playing field for eligible BTOP recipients and other state-funded projects, the FCC can maximize the efficiency of federal and state public monies allocated for broadband deployment, while ensuring that entities with institutional granular knowledge of unserved areas are in the best possible position to fulfill the FCC’s universal service goals.

The purpose of the Connect America Fund is to ensure universal broadband service as quickly and efficiently as possible. Leveraging already allocated public funds, such as those awarded to BTOP grantees and those authorized by states for assisting broadband projects, with CAF Phase II funding is the best way to do this. This would not be the first time the FCC has built upon the experience and expertise of BTOP recipients in the context of universal service, and, indeed, the FCC has championed such an approach in this very proceeding.<sup>1</sup>

For example, since the completion of its BTOP-funded middle-mile network, the Massachusetts Broadband Institute (“MBI”) has used public funds to move toward closing the remaining last-mile

<sup>1</sup> *In re Connect Am. Fund, et al.*, WC Docket No. 10-90, *Report & Order & Further Notice of Proposed Rulemaking*, FCC 11-161, ¶ 5 (rel. Nov. 18, 2011); *see also In re Lifeline & Link Up Reform & Modernization*, WC Docket No. 11-42, *Order*, DA 12-2045, ¶ 13 (rel. Dec. 19, 2012); *In re Lifeline & Link Up Reform & Modernization, et al.*, WC Docket No. 11-42, *Report & Order & Further Notice of Proposed Rulemaking*, FCC 12-11, ¶ 352 (rel. Feb. 6, 2012).



broadband gaps in Massachusetts.<sup>2</sup> In 2014, the Commonwealth of Massachusetts authorized for the MBI an additional \$50 million in state capital funding for this purpose. CAF Phase II funding awarded to an entity such as the MBI could complement these federal and state funds, whereas funding for the exact same census blocks awarded to another entity would likely be used to re-cover much of what a project like the MBI has already accomplished. As the FCC stated: “It would be an inefficient use of public funds to provide government support to two different projects aimed at serving the same location.”<sup>3</sup> The synergies that awarding CAF funding to BTOP recipients or other state-funded broadband projects—one publicly funded project per location—create would help the FCC close broadband availability gaps all over the country.

In addition to the efficient use of public funds, awarding CAF Phase II funding to eligible BTOP recipients or other state-funded broadband projects would be prudent given such projects’ institutional knowledge of the unserved areas in which they continue to operate. These projects that are eligible and apply for CAF Phase II funding have presumably already completed a middle-mile network in the area in which they seek to provide last-mile access through the CAF. Who better to provide such last-mile access than an entity who has studied and thrived in the area for the better part of a decade?

Further, while an auction bidder not already affiliated with a BTOP or state-funded project could leverage the project’s middle-mile infrastructure, such a bidder would be forced to interconnect with the operator of the established middle-mile network. Awarding CAF Phase II funding directly to the BTOP recipient would avoid this process and the significant related costs.

Finally, in the census blocks at issue in the CAF Phase II auction price cap carriers already had the exclusive opportunity and declined CAF Phase II funding. Accordingly, fundamental fairness dictates not only that the FCC look to entities that have not yet had an opportunity for CAF funding. The FCC is seeking to maximize the number of bidders in the auction, and adopting a policy in favor of BTOP recipients and other state projects would encourage such entities to submit bids when they otherwise may not be inclined to do so.

To be clear, the MDTC is not suggesting that the FCC award CAF funding to any entity that is not qualified under the FCC’s rules and auction procedures. On the contrary, BTOP recipients and other state-funded broadband projects such as the MBI are eminently qualified to receive CAF funding, and the MDTC is suggesting that the FCC give special consideration to such entities as a means to maximize the efficient use of public funds and local market expertise.

Pursuant to Section 1.1206 of the FCC’s rules, this notice is being filed electronically via ECFS with your office. Please do not hesitate to contact me should you have any questions.

Sincerely,

/s/ Karen Charles Peterson  
Karen Charles Peterson, Commissioner

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<sup>2</sup> See <http://broadband.masstech.org/building-networks/last-mile/program-unserved-towns>.

<sup>3</sup> *In re Connect Am. Fund*, WC Docket No. 10-90, *Report & Order*, FCC 13-73, ¶ 20 (rel. May 22, 2013).

