

May 18, 2021

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, NE
Washington, DC 20554

Re: Establishing the Digital Opportunity Data Collection, WC Docket No. 19-195; Modernizing the FCC Form 477 Data Program, WC Docket No. 11-10; Rural Digital Opportunity Fund (Auction 904), AU Docket No. 20-34; Rural Digital Opportunity Fund, WC Docket No. 19-126; Connect America Fund, WC Docket No. 10-90; Telecommunications Carriers Eligible to Receive Universal Service Support, WC Docket No. 09-197

Dear Ms. Dortch:

The Commission adopted its Rural Digital Opportunity Fund (“RDOF”) order last year despite concerns that it would subsidize the construction and operation of broadband facilities in some areas that already have at least 25/3 Mbps service.¹ Concerns about the accuracy of the Commission’s broadband maps are widespread and bipartisan.² Newly released information from the Competitive Carriers Association (“CCA”) has called into question thousands of locations where RDOF funding is set to be awarded to subsidize areas that are served today. The

¹ *Rural Digital Opportunity Fund, Connect America Fund*, Report and Order, 35 FCC Rcd 686, 784 (2020) (“*RDOF Order*”) (Statement of Commissioner Jessica Rosenworcel Approving in Part, Dissenting in Part) (noting “the FCC should know in detail where service truly is and is not . . . *before* sending federal funds to who knows where to build who knows what.”); *RDOF Order* at 788 (Statement of Commissioner Geoffrey Starks Approving in Part, Dissenting in Part) (arguing “mak[ing] funding decisions . . . using data we all know is wrong. That is a ‘ready, fire, aim’ approach that favors speed of funding over the lasting results that Americans really need.”).

² For example, Senator Klobuchar and House Majority Whip James Clyburn introduced legislation calling, in part, for the implementation of the DATA Act. See Press Release, Klobuchar, Clyburn Introduce Comprehensive Broadband Infrastructure Legislation to Expand Access to Affordable High-Speed Broadband Internet (Mar. 11, 2021), <https://www.klobuchar.senate.gov/public/index.cfm/2021/3/klobuchar-clyburn-introduce-comprehensive-broadband-in-frastructure-legislation-to-expand-access-to-affordable-high-speed-internet>. See also Press Release, Committee Leaders Urge FCC to Quickly Produce Accurate Broadband Maps (Mar. 8, 2021), <https://www.commerce.senate.gov/2021/3/committee-leaders-urge-fcc-to-quickly-produce-accurate-broadband-maps>; *Hearing on Fiscal 2021 Budget Proposal for the Federal Communications Commission Before the S. Appropriations Subcomm. on Fin. Servs. and Gen. Gov’t*, 116th Cong. 53 (2020) (“*FY 2021 FCC Budget Hearing*”) (testimony of Commissioner Brendan Carr) (stating “[f]or those areas where . . . our maps aren’t good at differentiating where there’s service and where there’s not, let’s do a deep dive. Let’s fix that problem.”); Commissioner Nathan Simington, February 2021 Open Meeting of the Federal Communications Commission (Feb. 17, 2021) (speaking to the need for accurate maps for the FCC to more effectively deploy its resources and to reduce waste, fraud, and abuse).

FCC has the authority to require awardees to update their long-form applications with accurate broadband access data, and with the promise of billions of dollars of federal subsidies, it is appropriate for the Commission to take the step of requiring applicants to update their FCC filings.

CCA recently compared RDOF auction results to publicly available data about broadband access. By overlapping speed test data on RDOF areas, CCA found that nearly 286,000 locations with almost 403,000 people that are poised to receive scarce broadband subsidies already have robust connectivity. Indeed, CCA found that current awards are set to deploy between \$144 million and \$1 billion to subsidize broadband deployment to areas that are well-served today. These errors are especially troubling because RDOF Phase I awards were supposed to go to those most in need—areas “wholly unserved” by broadband. If a single household within an area was found to have broadband service, that area was intended to be considered for support later, in RDOF Phase II.

Unfortunately, RDOF’s first round is poised to send scarce federal dollars to some of the most connected, dense, and wealthy communities in the country rather than targeting only “wholly unserved” areas. CCA found that subsidies are targeted for:

- Apple’s headquarters in Cupertino, California
- The Massachusetts Institute of Technology’s campus in Cambridge, Massachusetts
- Fisherman’s Wharf, the popular urban center and tourist destination in San Francisco
- Chicago’s Inner Loop business district
- Large international airports, like DFW International in Dallas-Ft. Worth and SFO International in San Francisco

We understand that the Commission was attempting to fulfill two mandates—fixing its maps and bridging the digital divide—with a sense of urgency. And we all agree that it is imperative to continue building high-speed networks quickly for those who so need it to participate in modern life—for remote learning, work-from-home, telehealth, and to connect with their communities. But the errors that have been surfaced thus far are not trivial or in the ordinary course of administering a large program. According to one CCA estimate, the FCC’s mapping errors threaten to waste up to \$1 billion. That sum is almost three times the FCC’s annual budget.

It is incumbent on the Commission to devote resources to review questionable applications before dollars go out the door, and CCA provides a useful playbook for doing so. Publicly available data led CCA and could lead the Commission to scrutinize awarded areas that crowdsourcing shows have robust broadband access. CCA also used Census data on population density and household income, which the Commission has recognized are highly correlated with broadband access. The FCC has the authority to require awardees to update their Commission filings with accurate broadband access data, and with the promise of billions of dollars of federal subsidies, it is appropriate that awardees assist the Commission in that effort. The undersigned

groups have a strong interest in bridging the digital divide and ensuring that ratepayers' dollars are well spent. We stand ready to assist.

The FCC has called RDOF its "single biggest step to close the digital divide." The FCC must act now to make RDOF live up to that lofty goal.

Sincerely,

Jeffrey Mazzella
President
Center for Individual Freedom

Ernesto Falcon
Senior Legislative Counsel
Electronic Frontier Foundation

Betsy Huber
President
National Grange

Matthew F. Wood
Vice President of Policy and General Counsel
Free Press

Douglas Holtz-Eakin
President
American Action Forum
(affiliation for identification purposes only)

Jeffrey Westling
Technology & Innovation Policy Fellow
R Street Institute

Jennifer Huddleston
Director of Technology and Innovation Policy
American Action Forum
(affiliation for identification purposes only)

Brandon Arnold
Executive Vice President
National Taxpayers Union

Ryan Nabil
Research Fellow
Center for Technology and Innovation
Competitive Enterprise Institute

Greg Guice
Director of Government Affairs
Public Knowledge

cc (via e-mail): The Honorable Acting Chairwoman Jessica Rosenworcel
 The Honorable Brendan Carr
 The Honorable Geoffrey Starks
 The Honorable Nathan Simington