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

In the Matters of )
Connect America Fund ) WC Docket No. 10-90
Rural Broadband Experiments ) WC Docket No. 14-259

To: The Commission

COMMENTS OF
THE NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
ON
PETITIONS FOR WAIVER OF
LETTER OF CREDIT FINANCIAL INSTITUTION ELIGIBILITY AND OTHER
REQUIREMENTS FOR RURAL BROADBAND EXPERIMENTS AND THE CONNECT
AMERICA PHASE II COMPETITIVE BIDDING PROCESS

The National Rural Electric Cooperative Association (“NRECA”) respectfully submits
these comments in response to the Public Notices released by the Federal Communications
Commission (“Commission”) requesting comment on several petitions for waiver related to
(1) the financial institution eligibility requirements for letters of credit associated with the Rural
Broadband Experiments and, more broadly, to the Connect America Phase II competitive
bidding process,\(^1\) and (2) letter of credit questions raised in the Alliance of Rural Broadband
Applicants Petition for Waiver related to the Rural Broadband Experiments and, more broadly,
to the Connect America Phase II competitive bidding process (“Alliance Waiver Petition.”)\(^2\)

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INTRODUCTION

NRECA is the national service organization for more than 900 not-for-profit rural electric utilities that provide electric energy to approximately 42 million people in 47 states or approximately 12 percent of electric customers. Rural electric cooperative infrastructure covers 75% of the land mass of the United States. Rural electric cooperatives were formed to provide safe, reliable electric service to their member-owners at the lowest reasonable cost. Electric cooperatives are private, non-profit entities that are owned and governed by the members to whom they deliver electricity. NRECA member cooperatives are committed to providing safe, affordable, reliable, and efficient service to their member-owners. In recent years, a number of electric cooperatives have expanded operations to provide, directly or in conjunction with other cooperatives, voice, video and broadband services to their communities. Electric cooperatives submitted expressions of interest in response to the Commission’s Rural Broadband Experiment initiative, a number of NRECA members submitted bids in response to the Commission’s invitation, and several were designated as provisionally selected rural broadband experiments bidders by the Commission. NRECA member cooperatives have a high level of interest in the upcoming Phase II competitive bidding process.

DISCUSSION

I. Financial Institution Eligibility

As NRECA previously commented, the Commission should grant the petition for waiver filed by the National Rural Utilities Cooperative Finance Corporation (CFC) and its affiliate, the Rural Telephone Finance Cooperative (RFTC), seeking status as a qualified financial institution

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eligible to provide letters of credit to prevailing rural broadband experiment (RBE) bidders even though it does not meet one of the eligibility requirements established by the Commission.\(^4\)

The grant of CFC’s request for waiver is in the public interest and does not undermine the underlying purpose of the RBE eligibility criteria for issuers of letters of credit. Rather, such a grant offers a “more effective implementation of the overall policy” of ensuring that qualified bidders may participate fully in the RBE program and furthers the Commission’s policy objective of extending broadband infrastructure into rural America. CFC lends to electric cooperatives for major infrastructure investments and many electric cooperatives “borrow exclusively from CFC because of attractive rates and flexible products.”\(^5\) As CFC explained, it is the largest non-governmental lender to rural utilities in the United States and it meets the operative financial institutional eligibility criteria established for the RBE program,\(^6\) except that CFC is not insured by the Federal Deposit Insurance Corporation (“FDIC”) or the Farm Credit System Insurance Corporation (“FCSIC”).

CFC has achieved its favorable credit issuer ratings by lending to rural electric cooperatives on a range of capital projects for decades. Many NRECA members have longstanding relationships with CFC. As a result of these relationships, CFC has acquired an


\(^5\) NRECA Letter, p. 2.

\(^6\) As explained in its Petition for Waiver:

CFC has over $22 billion dollars in total assets, which would rank it as the 63rd largest bank in the United States according to Federal Institutions Examination Council. CFC’s issuer credit from Standard and Poor’s is A; its issuer credit rating from Moody’s Investor Services is A2. CFC therefore satisfies the first two bank eligibility requirements.

CFC Waiver Petition, p. 6.
understanding of electric cooperatives’ businesses in terms revenues, liabilities, and risks and has maintained its excellent credit issuer ratings. CFC’s decisions to provide a letter of credit to an electric cooperative that is an RBE provisionally-selected winning bidder would be based on its informed judgment that the electric cooperative will perform its obligations under the RBE program of constructing its proposed infrastructure and delivering broadband and voice services to the intended recipients. The RBE program will benefit from CFC’s informed judgement.

Money center banks or regional banks that do not have comparable relationships with electric cooperatives may be less inclined to consider cooperatives’ requests for letters of credit or may very well require higher fees, among other requirements, to issue a letter of credit to electric cooperatives. This additional cost will impact the funds available for rural broadband buildouts and ongoing services support.

NRECA respectfully submits that these considerations support and warrant the grant of a similar waiver to CFC so that it may qualify as an eligible financial institution for issuing letters of credit for electric cooperatives that prevail in the Phase II competitive bidding process. The anticipated CAF II funding levels are consistent with the loan amounts that CFC extends to electric cooperatives for major capital projects. The same is true for CoBank, which the Commission has already approved as an eligible issuer of letters of credit for provisionally-selected winning bidders for RBE funds.

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7 In deciding that CoBank, ACB (“CoBank”) would be eligible to issue letters of credit under the RBE program, the Commission noted, in addition to its financial strength, the relevance of CoBank’s existing relationship with small rural carriers who were among the likely RBE recipients. \textit{RBE Order}, ¶ 60.

8 Thus, it is not surprising that two electric cooperatives that are provisionally-selected winning RBE bidders have filed petitions for waiver of the letter of credit eligibility rules so that they might obtain a letter of credit from CFC. \textit{See} Midwest Energy Cooperative, Petition for Waiver, WC Docket No. 10-90, submitted on March 23, 2015; and Lake Region Electric Cooperative, Inc., Petition for Waiver, WC Docket No. 10-90, submitted on March 24, 2015.
II. Other Letter of Credit Requirements

NRECA supports the proposal to limit the duration of the Letter of Credit obligation until such time as the RBE recipient satisfies the applicable deployment benchmark, as proposed by CoBank.9 This proposal is comparable to the proposal in the Alliance of Waiver Petition to place parameters on the duration of the letter of the credit obligation for RBE provisionally-selected winning bidders.10 Under the existing requirements, the letter of credit must be renewed and increased each year as additional funds are disbursed over the ten-year period. CoBank notes that “[t]his is inconsistent with commercially prudent lending practices.”11 CoBank recommends that the Commission require annual increases in the LOC “only through the build-out period,” and that, as construction/deployment is complete, the LOC requirement should either be eliminated, as under the Mobility Fund Phase I, or be limited to cover the funds to be disbursed over the next year.12

The proposal has substantial merit. As fixed infrastructure is deployed within the winning bidder’s defined territory, the service provider has performed a substantial portion of its obligations and a fundamental objective of the Commission’s rural broadband programs is achieved. Moreover, the fixed infrastructure has standalone economic value.

Similar to CFC’s letter of credit eligibility rule waiver request, NRECA recommends the foregoing refinement to the letter of credit requirements under the RBE program be extended to

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9 WC Docket No. 10-90, CoBank Comments, filed on March 20, 2015 (“Co-Bank Comments”).

10 CoBank Comments, pp. 2-3. NRECA focuses on the CoBank proposal because this is a primary lender to electric cooperatives. NRECA does not take positions on other proposals set out in the Alliance Waiver Petition.

11 CoBank Comments, p.3.

12 Id.
CoBank and CFC with respect to funds that may be dispersed under the Phase II competitive bidding process.

CONCLUSION

The Commission has designed a thoughtful, long-term approach to promoting broadband deployment in rural areas in which many electric cooperatives have long provided an essential service to their communities. Many are interested in pursuing broadband deployment in their communities. The RBE program and the Phase II competitive bidding process provide workable blueprints for extending broadband to rural areas. The refinements to the letter of credit requirements that NRECA supports are prudent, reasonable steps that will further the objective of economic, sustainable broadband deployment in rural areas.

Respectfully submitted,

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION

By: ______________/s/________________
    C. Douglas Jarrett
    Partner
    Keller and Heckman LLP
    1001 G Street, NW, Suite 500 West
    Washington, DC 20001
    (202) 434-4180
    Jarrett@khlaw.com

Counsel to NRECA

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