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

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

REPLY COMMENTS OF
GVNW CONSULTING, INC.

GVNW Consulting Inc. (“GVNW”) respectfully submits its reply comments in response to the comments filed pursuant to the Wireline Competition Bureau’s (“Bureau”) Public Notice addressing Wireline Competition Bureau’s Public Notice on The Alliance of Rural Broadband Applicants’ Petition for Limited Waiver of Certain Rural Broadband Experiment Letter of Credit Requirements; also More Generally on Letter of Credit Proposal for Connect America Phase II Competitive Bidding Process (“Public Notice”). These reply comments will focus on the impact of the letter of credit (“LOC”) proposals for the Connect America Phase II (“CAF Phase II”) on GVNW’s small company clients who may wish to participate in the CAF II competitive bidding process.

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1 GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.
GVNW strongly supports policies that ensure the integrity of the universal service fund, and particularly those which support prudence in the use of scarce high-cost fund resources. The LOC mechanism can be such a policy but it must be applied carefully so as to avoid discouraging otherwise qualified potential bidders from participating in the CAF Phase II competitive bidding process.

It is in the public interest to have as many qualified bidders as possible for the CAF Phase II auctions. More bidders will presumably cover more of the unserved areas made available for bidding in states where the price cap carrier does not elect statewide CAF Phase II support and the accompanying obligations. A greater number of bidders will also help conserve CAF Phase II funds by competing down the support available in a particular unserved area.

I. The “Top 100” Bank Requirement Should be Modified

First, with respect to the requirement to obtain LOCs from “top 100 banks,” GVNW is in accord with the comments of NTCA on the burdens and impracticality of applying this requirement to smaller entities.\(^4\) Although NTCA addresses this issue in the context of the Rural Broadband Experiments program, GVNW is concerned about this restriction if applied to the CAF Phase II competitive bidding mechanism. Such application would be highly problematic.

Expanding the number of financial institutions that can provide LOCs, particularly institutions usually accessed by small incumbent local exchange carriers (ILECs), will permit more small ILECs carriers to participate in the auctions. ILECs have a proven track record of providing broadband service in rural areas and may be the most competent and best-positioned

bidders to bring broadband to price cap company areas without such service and available in the CAF Phase II auction.

NTCA makes compelling arguments in its comments with regard to the eligibility of financial institutions to offer LOCs. First, it notes that for a smaller entity obtaining a relatively smaller award, “the cost of obtaining a LOC from a top 100 bank may be prohibitive and all but defeat the rationale for obtaining support.” Second, NTCA comments that small businesses have few, if any, pre-existing relationships of any significance with top 100 commercial banking institutions. So GVNW supports permitting CAF Phase II auction bidders to obtain a LOC from any federally-insured bank.

GVNW also supports permitting the National Rural Utilities Finance Corporation (CFC) and its affiliate, the Rural Telephone Finance Cooperative (RTFC) to issue LOCs to entities participating in the CAF Phase II competitive bidding process. In its Petition for Waiver, CFC states that its assets would place it among the 100 largest U.S. banks, and it has an issuer credit rating of A from Standard & Poor’s, well above the Commission’s required BBB- rating.” CFC also notes its strong access to capital that provides protection functionally equivalent to FDIC/FCSIC insurance. For decades CFC and RFTC have provided concurrent financing in conjunction with RUS and bridge financing until RUS loan approval is granted. CFC and RTFC have a long history of providing funding to rural telephone borrowers. Many small ILECs

5 *Id* at 3.
6 *Id.*
8 *Id.*
9 *Id* at 8.
have a long-standing relationship with RTFC and rely on it for their financing needs. There is no good reason to disqualify CFC and RTFC from providing LOCs for CAF Phase II bidders.

II. The Structure and Conditions of LOCs Should be Modified for Bidders Participating in the Auction Portion of CAF Phase II

The LOC structure for the Rural Broadband Experiments should not be imported to CAF Phase II. The current LOC structure is costly, will reduce the deployment of broadband, and will discourage the participation of banks and small ILECs in the competitive bidding process.

USTelecom provides a vivid illustration of the potential high cost of the LOC mechanism as currently structured.10 GVNW agrees with the CoBank and USTelecom that the Commission should “tailor LOC requirements for CAF Phase II to more appropriately reflect the amount of funding perceived to be “at risk” because it has yet to be invested in telecommunications plant.”11

CoBank clearly explains how the structure of the current LOC mechanism increases the potential for financial distress by the provider and the exposure of the original issuing bank to lender liability risk.12 It notes that “the initial LOC can be opened for one year, but then must be renewed and increased each year as more funds are disbursed. The LOC must remain open for 120 days after the completion of the 10-year program and failure by the recipient to renew (and increase) the LOC would result in default under the terms of the program, enabling the Commission to draw on the LOC and effectively “claw back” all the funds disbursed over the course of a decade.”13 GVNW agrees with USTelecom and CoBank that this structure is

10 Id at 3.
13 Comments of USTelecom at 2 and Comments of CoBank at 2.
problematic as it will increase the risk to lenders and discourage otherwise well-qualified small ILECs from participating in the CAF Phase II competitive bidding process. As USTelecom correctly concludes with respect to importing the RBE LOC mechanism to the auctions in CAF Phase II, “If the Commission were to apply such a burdensome enforcement mechanism to CAF II, it would materially reduce the deployment of broadband and undermine the purpose of the program.”

Both USTelecom and CoBank offer constructive alternatives that are tailored to the money “at risk” annually. CoBank recommends that the LOCs be structured such that the amount increases only through the build-out period. Once the plant is operational, the LOC requirement would be eliminated, or the amount of the LOC should be reduced to cover only the funds the Commission will disburse over the coming year (the “rolling one-year coverage” approach). USTelecom makes a similar proposal – that the terms of the LOC conform to the amount of money at risk annually or at most within a one to two year range.

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14 Id.
15 See Comments of CoBank at 3 and Comments of USTelecom at 2.
16 See Comments of USTelecom at 2.
III. Conclusion

The LOC requirement should be structured so as to meet the Commission’s twin goals – ensuring the integrity of the high-cost universal service fund and encouraging a robust competitive bidding process. The competitive bidding mechanism is a key part of CAF Phase II and will be an important element in determining the distribution of high-cost funding in the future. In order for small ILECs to participate in that process, the definition of banks permitted to offer LOCs must be expanded, and the application of the LOCs must be reformed.

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