**DA 23-1131**

**Released: December 4, 2023**

**Wireline Competition Bureau Provides Additional Guidance on Performance Measures Requirements for Carriers Transitioning to Enhanced A-CAM and those remaining on CAF BLS support**

**WC Docket No. 10-90**

With this Public Notice, the Wireline Competition Bureau (Bureau) provides additional guidance regarding the performance measures requirements for Alternative Connect America Cost Model (A-CAM) I, A-CAM II, and Connect America Fund Broadband Loop Support (CAF BLS) carriers authorized to begin receiving Enhanced A-CAM support on January 1, 2024.[[1]](#footnote-3) In addition, the Commission sunsets the mixed support (*Hargray*) condition applicable to some carriers taking Enhanced A-CAM support.

In the *Implementation Order*, the Bureau “establish[ed] January 1, 2026 as the start date for Enhanced A-CAM carriers’ ‘pre-testing’ period, in which carriers must test the speed and latency of their networks quarterly for a week-long period and submit the results within one week of the end of each quarter of pre-testing, and January 1, 2027 as the start date for Enhanced A-CAM performance testing, after which carriers may be subject to the performance measures non-compliance rules.”[[2]](#footnote-4)

In the interim, carriers authorized for Enhanced A-CAM support that do not meet their existing A-CAM I, A-CAM II, or CAF BLS deployment milestones due by December 31, 2023 will be subject to support withholding or recovery and “any support withholding or recovery will be based on support at the time the carrier is notified of non-compliance.”[[3]](#footnote-5) In the *Authorization Public Notice*, the Bureau statedthat “Enhanced A-CAM carriers shall continue to conduct performance testing in their existing support programs until the Bureau has confirmed that the carrier is in compliance with its obligations under that program because results for performance testing conducted in 2023 are not due until July 1, 2024.”[[4]](#footnote-6) We provide more specific guidance below.

*A-CAM I and A-CAM II Carriers Moving to Enhanced A-CAM*. A-CAM I and A-CAM II carriers authorized for Enhanced A-CAM are still required to comply with performance testing requirements for 2023, and by July 1, 2024 must certify the testing results.[[5]](#footnote-7) After July 1, 2024, the Universal Service Administrative Company (USAC) and the Bureau will process the certified testing data and implement any support withholding, as required, against monthly Enhanced A-CAM disbursements.[[6]](#footnote-8) Once a carrier shows that it has come back into compliance with its A-CAM I or A-CAM II performance requirements, it will receive its full monthly Enhanced A-CAM disbursement and have its withheld support restored. Continuing to conduct performance testing in 2024 may, therefore, be in a carrier’s interest because compliance with A-CAM I or A-CAM II performance requirements certified for any quarter of 2024 and even prior to processing 2023 testing data means such carrier will not have Enhanced A-CAM support withheld.[[7]](#footnote-9)

*CAF BLS Carriers*. Carriers that are currently on CAF BLS *regardless of whether they have elected Enhanced A-CAM* must show that they were in compliance with their CAF BLS performance requirements in 2023, the final year of their five-year deployment term. For carriers that transition from CAF BLS to Enhanced A-CAM, if they are in compliance with performance measures standards for the year 2023, then no further testing is needed until 2026. However, any CAF BLS carrier that is not in compliance with performance measures for 2023 will be subject to support recovery under section 54.320(d) of the Commission’s rules or may attempt to return to compliance within a one-year cure period by conducting another year of performance testing using a statistically valid sample of locations.[[8]](#footnote-10) A carrier must request such a sample from USAC no later than August 1, 2024 and begin the one year of testing in the fourth quarter of 2024. For those carriers choosing to do an additional year of testing with a statistically valid sample, any support recovery for failing to meet end of term performance obligations will be calculated after the one-year cure period. Moreover, carriers that did not elect Enhanced A-CAM and thus remain on CAF BLS support must continue performance testing even after they have shown they are in compliance for the five-year obligation.

*Mixed Support Condition*. We also announce the sunsetting of the mixed support (i.e., *Hargray*)condition on the mixed support transactions of 22 CAF BLS/High Cost Loop Support (HCLS) companies that will be receiving Enhanced A-CAM support as of January 1, 2024, as detailed in the Appendix. In the *Hargray/ComSouth Order*, the Commission approved a mixed support transaction, i.e., a transaction involving the combination of one or more entities receiving fixed high-cost support and one or more entities receiving cost-based support, subject to a condition to prevent cost shifting and to protect the finite resources of the high-cost universal service fund.[[9]](#footnote-11) This condition (the *Hargray* condition) capped the high-cost cost-based universal service support received based on the operating expenses of the rate-of-return carriers receiving cost-based support for a term of seven years (and any other rate-of-return affiliates acquired during the time in which the condition is in effect (together, covered entities)) or until all covered entities were converted to fixed support.[[10]](#footnote-12) The Commission directed the Bureau to apply this condition to future mixed-support transactions.[[11]](#footnote-13) The 22 companies listed in the Appendix were part of such transactions and were made subject to the *Hargray* condition as per Commission and Bureau releases, as indicated therein.

The conversion of the support received by each of these 22 companies from cost-based support to fixed Enhanced A-CAM (including fixed transitional support) will render the *Hargray* condition on the company’s associated transaction obsolete. The *Hargray* condition and related obligations will continue to apply to all cost and revenue data that is applicable to the 2023 calendar year, and these companies must file their compliance certification and financial report for 2023 by January 1, 2024.[[12]](#footnote-14)

For additional information on this proceeding, please contact Stephen Wang (Stephen.Wang@fcc.gov) of the Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

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**APPENDIX**

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| **Holding Company Accepting Enhanced A-CAM Support** | **Study Area Converting to Enhanced A-CAM** | **Study Area Code** | **Related Orders** |
| Cable One, Inc. | Bluffton Tel. Co. | 240512 | DA 21-502; FCC 18-62 |
| Cable One, Inc. | Hargray Tel Co | 240523 | DA 21-502; FCC 18-62 |
| Communications 1 Network, Inc. | Goldfield Tel Co | 351188 | DA 20-1509 |
| Court Square Capital Partners | Warwick Valley-Nj | 160135 | DA 18-1169 |
| Direct Management Company | Direct Communications Cedar Valley, LLC | 500758 | DA 22-61 |
| Dobson Technologies, Inc. | Lavaca Tel Co-Ar | 401704 | FCC 23-800, FCC 21-63; DA 23-657, DA 22-1092, DA 21-68 |
| Dobson Technologies, Inc. | Lavaca Tel Co-Ok | 431704 | FCC 23-800, FCC 21-63; DA 23-657, DA 22-1092, DA 21-68 |
| Future Fiber FinCo, LLC | Ontario Tel Co, Inc. | 150112 | DA 22-390, DA 21-346 |
| Future Fiber FinCo, LLC | Trumansburg Tel Co. | 150131 | DA 22-390, DA 21-346 |
| Germantown Tel. Company, Inc. | Germantown Tel Co | 150097 | DA 23-657 |
| Great Plains Communications, Inc. | Sunman Telecomm Corp | 320825 | DA 20-981 |
| Hilliary Communications, LLC | Medicine Park Tel Co | 432008 | DA 19-184, DA 18-1265 |
| Moundville Communications, Inc. | Moundville Tel Co | 250307 | DA 22-1262 |
| Mecklenburg Electric Cooperative | Buggs Island Coop | 190219 | DA 20-257 |
| New Lisbon Tel. Company, Inc. | New Lisbon Tel Co | 320796 | DA 22-531 |
| Sacred Wind Enterprises, Inc. | Sacred Wind | 493403 | DA 22-1066 |
| Wilkes Tel. Membership Corp. | Barnardsville Tel Co | 230469 | DA 18-742 |
| Wilkes Tel. Membership Corp. | Ellerbe Tel Co | 230478 | DA 18-742 |
| Wilkes Tel. Membership Corp. | Tri County Tel Membr | 230505 | DA 18-742 |
| Wilkes Tel. Membership Corp. | Service Tel Co | 230500 | DA 18-742 |
| Wilkes Tel. Membership Corp. | Wilkes Membership | 230510 | DA 18-742 |
| Wilkes Tel. Membership Corp. | Saluda Mountain Tel | 230498 | DA 18-742 |

1. *See Wireline Competition Bureau Authorizes 368 Companies in 44 States to Receive Enhanced Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, DA 23-1025 (WCB Oct. 30, 2023) (*Authorization Public Notice*). [↑](#footnote-ref-3)
2. *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.*, WC Docket No. 10-90 et al., Order, DA 23-778, at 7, para. 17 (WCB Aug. 30, 2023) (*Implementation Order*) (internal citations omitted). The Bureau also “clarif[ied] that Enhanced A-CAM carriers’ test locations will include all locations to which they have deployed or will deploy 100/20 Mbps or faster broadband service within their Enhanced A-CAM service areas—not just the locations to which they must newly deploy 100/20 Mbps or faster broadband service, i.e., Enhanced A-CAM required locations.” *See id.* [↑](#footnote-ref-4)
3. *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.*, WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60, at 23-24, para. 49 (July 24, 2023) (*Enhanced A-CAM Order*); 47 CFR § 54.320(d)(1). *See also Enhanced A-CAM Order* at 40-41, paras. 92-95 (explaining how Enhanced A-CAM support may be reduced because of a carrier’s non-compliance with a prior program’s service milestone). [↑](#footnote-ref-5)
4. *Authorization Public Notice* at 2. Although the Commission recently adopted changes requiring all high-cost support recipients serving fixed locations to report and certify performance testing results on a quarterly basis, rather than annually, testing conducted through the end of 2023 must still be reported by July 1, 2024. *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Notice of Proposed Rulemaking and Report and Order, FCC 23-87, at 62, para. 136 (2023) (adopting quarterly deadlines for reporting performance testing results). [↑](#footnote-ref-6)
5. 47 CFR § 54.313(a)(6). [↑](#footnote-ref-7)
6. *See Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509, 6530-33, paras. 56-67 (WCB 2018). [↑](#footnote-ref-8)
7. Once current A-CAM I or II carriers are in compliance with their existing obligations, as Enhanced A-CAM carriers they will no longer be subject to prior A-CAM I or A-CAM II deployment obligations and associated performance measures requirements after they begin receiving Enhanced A-CAM support. *See Enhanced A-CAM Order* at 23, para. 49 (“Enhanced A-CAM carriers’ interim and final deployment milestones will supersede the existing deployment milestones required by the A-CAM I and A-CAM II programs.”). No further performance measures testing is necessary for such carriers until the Enhanced A-CAM pre-testing period begins in 2026. [↑](#footnote-ref-9)
8. *See id.* at 23-24, para. 49; 47 CFR § 54.320(d)(1). *See also Enhanced A-CAM Order* at 40-41, paras. 92-95 (citing *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893, 11927, para. 112 (2018)). [↑](#footnote-ref-10)
9. *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for* Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934, WC Docket 18-52, Memorandum Opinion and Order, 33 FCC Rcd 4780, 4788-90, paras. 26-31 (2018) (*Hargray/ComSouth Order*). [↑](#footnote-ref-11)
10. *Id*. More specifically, the Commission capped the combined operating expenses of the post-consummation company’s rate-of-return affiliates at the averaged combined operating expenses of the three calendar years preceding the transaction’s closing date for which the operating expense data are available. During the applicable time frame, the cap would be applied to cost recovery under both HCLS and CAF BLS and proportionate to each affiliate’s accounts used to determine the affiliate’s eligible operating expense for HCLS and CAF-BLS. *Id*. at 4788-90, paras. 27-31. [↑](#footnote-ref-12)
11. *Id*. at 4789, para. 27 n.72. [↑](#footnote-ref-13)
12. *Id*. at 4790, para. 31. [↑](#footnote-ref-14)