



PUBLIC NOTICE

Federal Communications Commission
45 L Street NE
Washington, DC 20554

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Internet: <https://www.fcc.gov>
TTY: 1-888-835-5322

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WIRELINE COMPETITION BUREAU SEEKS COMMENT ON LEVERAGING THE BROADBAND SERVICEABLE LOCATION FABRIC FOR HIGH-COST SUPPORT MECHANISM DEPLOYMENT OBLIGATIONS

WC Docket No. 10-90
WC Docket No. 16-271
WC Docket No. 18-143
WC Docket No. 19-126
AU Docket No. 20-34

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I. INTRODUCTION

1. In this Public Notice, the Wireline Competition Bureau (WCB or the Bureau) seeks comment on using the data included in the Broadband Serviceable Location Fabric (Fabric) to update and verify compliance with certain High-Cost program support recipients' deployment obligations. Generally, we propose to leverage the Fabric to provide support recipients a reliable data source for determining locations and to maximize the number of consumers that are served by recipients of various High-Cost support mechanisms.

II. BACKGROUND

A. High-Cost Program

2. The Universal Service Fund's High-Cost program is designed to ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service at rates that are reasonably comparable to those in urban areas.¹ Starting in 2011, the Commission modernized the High-Cost program, which included developing a new forward-looking cost model, the Connect America Cost Model (CAM), to calculate the cost of providing service in rural and high-cost areas, and adopting specific broadband deployment obligations for recipients of various High-Cost support mechanisms.²

3. For a number of these programs, the Commission relied on data sources to establish deployment obligations that provided an estimate of the number of locations in existence in the relevant support recipient's service area at a particular point in time. Relevant here, the Commission used the CAM for the Rural Digital Opportunity Fund (RDOF), and the Alternative-Connect America Cost Model (A-CAM) for the various A-CAM offers to estimate location totals.³ Additionally, for the Bringing Puerto Rico Together Fund (Uniendo a Puerto Rico Fund) and the Connect USVI Fund, the Commission relied on the most current Census Bureau data at the time to estimate the number of locations in Puerto Rico and the U.S. Virgin Islands.⁴ Recognizing that these sources may not reflect actual conditions on the ground over these programs' multi-year support terms, the Commission delegated to WCB the task of revising deployment obligations once more information was available regarding the actual number of locations within the support recipients' service areas.⁵

¹ 47 U.S.C. § 254(b)(3).

² *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order or FNPRM*), *aff'd sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

³ *See, e.g., Rural Digital Opportunity Fund et al.*, WC Docket No. 19-126 et al., Report and Order, 35 FCC Rcd 686, 709, para. 45 (2020) (*RDOF Order*); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3100, para. 29 (2016) (*2016 Rate-of-Return Reform Order*). The CAM and A-CAM rely on 2010 Census data updated to 2011 counts using Census Bureau 2011 county estimates and GeoResults (Q3/2012) to estimate the number of housing units and small businesses, i.e., businesses to which mass market services will be made available. CostQuest Associates, Inc., Connect America Cost Model (CACM): Model Methodology 12-15 (Dec. 22, 2014), https://transition.fcc.gov/wcb/CAM_v.4.2_Methodology.pdf (CAM Methodology); CostQuest Associates, Inc., Connect America Cost Model (A-CAM): Model Methodology 12-16 (May 1, 2018), https://apps.fcc.gov/edocs_public/attachmatch/DOC-350679A1.pdf (A-CAM Methodology). *See also Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding their Broadband Location Reporting Obligations*, Public Notice, WC Docket No. 10-90, 31 FCC Rcd 12900, 12903-05 (WCB 2016) (*Location Guidance Public Notice*); *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6084-85, para. 17 n.29 (2020) (*Auction 904 Procedures Public Notice*).

⁴ *The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, WC Docket No. 18-143 et al., Report and Order and Order on Reconsideration, 34 FCC Rcd 9109, 9143, paras. 60-61 (2019) (*2019 PR-USVI Order*); *Wireline Competition Bureau Releases List of Reserve Prices and Location Counts for the Uniendo a Puerto Rico Fund and Connect USVI Stage 2 Fixed Support Competitive Proposal Process*, WC Docket No. 18-143 et al., Public Notice, 34 FCC Rcd 12339 (WCB 2019) (*PR-USVI Location Count Public Notice*).

⁵ *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 709-11, paras. 45-51; *2019 PR-USVI Order*, 34 FCC Rcd at 9144, para. 63; *2016 Rate-of-Return Order*, 31 FCC Rcd at 3102, para. 34.

4. Moreover, for all modernized High-Cost programs, including those that did not rely on cost model or Census Bureau data to determine deployment obligations,⁶ the Commission has reiterated its goal of ensuring the universal availability of broadband and voice networks in funded areas.⁷ To measure progress in meeting this goal and monitor compliance with service milestones, the Commission requires recipients of high-cost program support to report deployment data in the High Cost Universal Broadband portal (HUBB) on at least an annual basis.⁸

B. Broadband Serviceable Location Fabric

5. In March 2020, Congress passed the Broadband Data Act that requires the Commission to establish a semiannual collection of geographically granular broadband coverage data for use in creating coverage maps, establish processes for challenges to the coverage data and for accepting crowdsourced information, and create a comprehensive database of Broadband Serviceable Locations (BSL).⁹ The Broadband Data Act defines the Fabric as the “common dataset of all locations in the United States where fixed broadband internet access service can be installed, as determined by the Commission,”¹⁰ and directs that the Fabric “shall . . . serve as the foundation upon which all data relating to the availability of fixed broadband internet service . . . shall be reported and overlaid.”¹¹ The Broadband Data Act also requires the Commission to create a process whereby information included in the Fabric may be challenged by “consumers, State, local and Tribal government entities, and other entities or individuals.”¹²

6. In July 2020 and January 2021, the Commission adopted rules establishing certain elements of the Fabric, consistent with the Broadband Data Act.¹³ In November 2021, the Commission awarded the contract for Fabric development to CostQuest Associates.¹⁴ In April 2022, the Broadband Data Task Force, WCB, and the Office of Economics and Analytics (OEA) provided access to a preliminary version of the Fabric,¹⁵ in June 2022 released the first production version of the Fabric,¹⁶ and

⁶ *Connect America Fund, et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139, 10145 para. 16 (2016) (*Alaska Plan Order*).

⁷ *See, e.g., USF/ICC Transformation Order*, 26 FCC Rcd at 17681, para. 51; *Alaska Plan Order*, 31 FCC Rcd at 10145-46, para. 16.

⁸ 47 CFR § 54.316.

⁹ Broadband Deployment Accuracy and Technology Availability Act, Pub. L. No. 116-130, 134 Stat. 228 (2020) (codified at 47 U.S.C. §§ 641-646) (Broadband DATA Act).

¹⁰ 47 U.S.C. § 642(b)(1)(A)(i).

¹¹ 47 U.S.C. § 642(b)(1)(B)(ii).

¹² 47 U.S.C. § 642(b)(5)(A).

¹³ *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket No. 19-195 et al., Second Report and Order and Third Further Notice of Proposed Rulemaking, 35 FCC Rcd 7460, 7483-84, paras. 52-54 (2020) (*Second BDC Report and Order*); *Establishing the Digital Opportunity Data Collection; Modernizing the FCC Form 477 Data Program*, WC Docket No. 19-195 et al., Third Report and Order, 36 FCC Rcd 1126, 1175-77, paras. 126-32 (2021) (*Third BDC Report and Order*). The Commission adopted definitions for residential and business locations that are based on definitions used for the Commission’s High-Cost programs, with the exception that residential locations include group quarters for the Fabric and these are not included as eligible locations in the High-Cost program. *Third BDC Report and Order*, 36 FCC Rcd at 1176, para. 127; *Location Guidance Public Notice*, 31 FCC Rcd at 12903-04.

¹⁴ *Broadband Data Task Force Announces Access to Preliminary Broadband Serviceable Location Fabric to Fixed Service Providers and Guidance for Filing Fixed Broadband Availability Data*, WC Docket No. 19-195 et al., Public Notice, 37 FCC Rcd 5046, 5048 (BDTF, OEA, WCB 2022) (*Preliminary Fabric Public Notice*).

¹⁵ *See generally Preliminary Fabric Public Notice*.

in January 2023 and July 2023 released updated versions of the Fabric.¹⁷ Each Fabric version is associated with a relevant “as of” date for fixed broadband availability reporting, and thus an updated iteration of the Fabric will be released in conjunction with the opening of a Broadband Data Collection (BDC) filing window for reporting broadband availability as of June 30 or December 31 of each year.¹⁸ The Commission assigns each BSL¹⁹ in the Fabric a unique identifier (Location ID), which reflects a single point defined by a set of geographic coordinates that fall within the footprint of a structure, as well as other attributes of the structure.

7. Currently, to ensure that Fabric data are consistent with data that high-cost support recipients are reporting to the HUBB to demonstrate compliance with their service milestones, we expect that support recipients will review the data they submit into the HUBB and as part of the BDC to identify any inconsistencies between the datasets.²⁰ If a support recipient identifies a mismatch between its two datasets, it can take one of the following steps to address the mismatch: remove the location from its HUBB submission, modify the attributes in its datasets to ensure that the HUBB and Fabric data submissions are consistent, or submit a Fabric challenge through the National Broadband Map or the BDC system. Moving forward and starting with Enhanced A-CAM, the FCC and USAC are developing a new version of the HUBB to accept data based on locations served that is based on Fabric Location IDs. Carriers will be provided a list of eligible Locations IDs within their service area. As carriers deploy broadband service in satisfaction of public interest obligations, they will report those eligible Location IDs in the HUBB.

III. DISCUSSION

8. We propose using the Fabric as the data source to revise and verify deployment obligations for a number of the high-cost support mechanisms, including RDOF, A-CAM I and II, the Bringing Puerto Rico Together Fund, the Connect USVI Fund, and the Alaska Plan to promote universal access to broadband across the areas funded by these programs. We seek comment on this proposal and on specific issues related to location total adjustments or verifications for each program.²¹

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¹⁶ *Broadband Data Task Force Announces The Availability Of The Production Version Of The Broadband Serviceable Location Fabric*, WC Docket No. 19-195 et al., Public Notice, 37 FCC Rcd 7537 (BDTF, WCB, OEA 2022).

¹⁷ *Broadband Data Task Force Announces Opening of the Third Broadband Data Collection Filing Window and Availability of the June 2023 Broadband Serviceable Location Fabric*, WC Docket No. 19-195 et al., Public Notice, DA 23-580 (BDTF July 3, 2023) (*Third BDC Filing Window Public Notice*); *Broadband Data Task Force Announces Recommended Best Practices for Challenges to Updated Broadband Serviceable Location Fabric*, WC Docket No. 11-10 et al., Public Notice, DA 23-69, at 1 (BDTF Jan. 25, 2023) (*Fabric Challenges Best Practices Public Notice*).

¹⁸ *Fabric Challenges Best Practices Public Notice* at 1.

¹⁹ A BSL is a business or residential location in the United States at which fixed broadband Internet access service is, or can be, installed. A residential BSL includes all residential structures, including structures that are (or contain) housing units or group quarters (as those terms are defined by the United States Census Bureau). A business BSL includes all non-residential (business, government, non-profit, etc.) structures that are on property without residential locations and that would expect to demand Internet access service. We use “location” throughout this Public Notice to refer to the number of units associated with a BSL in the Fabric.

²⁰ 47 CFR § 54.316.

²¹ We do not address the Connect America Fund Phase II auction in this Public Notice because we recently completed a location adjustment process where recipients had the opportunity to have their support and obligations adjusted if they could demonstrate it is more likely than not that they have identified all eligible locations in their service area and the number of locations they identified was less than the number of locations estimated by the CAM. *Connect America Fund et al.*, WC Docket No. 10-90, Order, DA 23-117 (WCB Feb. 9, 2023) (*ELAP Resolution Order*). We also do not address the recently adopted Enhanced A-CAM program because obligations for

(continued...)

A. Using the Fabric to Identify Locations in High-Cost Program Supported Areas

9. We propose to use the Fabric to identify the actual number of residential and small business units in each relevant high-cost support recipient's service area, i.e., the number of high cost-eligible locations. Because the Broadband Data Act directs the Commission to include in the Fabric "all locations in the United States where fixed broadband internet access service can be installed,"²² and to iteratively update the Fabric, including by incorporating the results of challenges submitted by stakeholders, improved and more updated data sets, and updates to reflect on-the-ground changes,²³ we expect the Fabric is and will continue to be the most comprehensive and up-to-date source available to identify all the high-cost eligible locations in the eligible census blocks within a support recipient's service area. The Fabric identifies BSLs, which are locations "where fixed mass-market broadband Internet access service has, or could be, installed."²⁴ Moreover, because the Fabric must "serve as the foundation upon which all data relating to the availability of fixed broadband internet access service . . . shall be reported and overlaid," the Fabric will help facilitate our future coordination with other agencies to avoid duplicative funding.²⁵

10. In identifying the high-cost eligible locations that are relevant to a high-cost support recipient's service area, we propose to exclude group quarters locations, which are currently included as BSLs in the Fabric, from revised locations totals to remain consistent with our previous guidance to exclude such locations from our High-Cost support mechanism location counts.²⁶ We also propose that if a portion of a parcel is inside an eligible census block,²⁷ but the BSL structure located on the parcel falls outside of the census block, the BSL will not be counted towards a support recipient's location total,

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those support recipients were already set using the Fabric. *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., FCC 23-60, at 16, para. 34 (July 24, 2023) (*Enhanced A-CAM Order*). Moreover, we do not address the Rural Broadband Experiments in this Public Notice because the deployment period has ended for this program. *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 29 FCC Rcd 8769, 8794, para. 74 (2014). Finally, we do not address Connect America Fund Broadband Loop Support (CAF BLS) in this Public Notice because the five-year deployment obligation term ended on December 31, 2023 and the Commission deferred the commencement of the next five-year deployment obligation term until January 1, 2025 while it considers general program reforms. *Connect America Fund et al.*, WC Docket No. 10-90, Second Report and Order, FCC 23-118 (Dec. 27, 2023) (citing *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60, at 58-59, paras. 138-42 (Jul. 24, 2023)). WCB intends to use the Fabric to verify CAF BLS carriers' claims that they have served 100% of the locations in their service areas.

²² 47 U.S.C. § 642(b)(1)(A)(i).

²³ 47 U.S.C. § 642(b)(5)(A); see also *Third BDC Filing Window Public Notice* at 2 (describing changes incorporated into a new version of the Fabric).

²⁴ *Broadband Data Task Force Publishes Data Specification for Bulk Challenges of Broadband Serviceable Location Fabric Data and Provides Further Details on Fabric Locations Data*, WC Docket No. 19-195 et al., Public Notice, 37 FCC Rcd 7686, 7690 (BDTF/WCB/OEA 2022).

²⁵ 47 U.S.C. § 642(b)(1)(B)(ii). See, e.g., The Broadband Interagency Coordination Act of 2020, Pub. L. No. 116-260, 134 Stat. 3214, Div. FF, tit. IX, § 904 (2020), codified at 47 U.S.C § 1308 et seq. (building on existing coordination and improving interagency efforts to facilitate efficient use of funds for broadband deployment).

²⁶ *Third BDC Report and Order*, 36 FCC Rcd at 1176, para. 127; *Location Guidance Public Notice*, 31 FCC Rcd at 12903.

²⁷ We note that for the Bringing Puerto Rico Together Fund and the Connect USVI Fund, the Commission adopted unique eligible geographic areas that are not defined by U.S. Census Blocks. *2019 PR-USVI Order*, 34 FCC Rcd at 9140, para. 51. For purposes of this Public Notice, all references to eligible census blocks include the eligible geographic areas adopted in the Bringing Puerto Rico Together Fund and the Connect USVI Fund unless otherwise specifically noted.

consistent with our other High-Cost programs. We note that for support programs where the location totals were determined by the CAM or A-CAM, these models assigned locations to census blocks using 2010 Census data that was updated to 2011 counts using Census Bureau 2011 county estimates.²⁸ Because the Fabric incorporates 2020 Census data, we plan to overlay 2010 census blocks over the Fabric locations to determine updated location counts. Are there any further adjustments or implications we should consider in using this approach?

11. We seek comment on our proposal to use the Fabric as the source for data on supported locations and on the adjustments we propose here. Should we use any sources to supplement our use of the Fabric? If we do rely on the Fabric as a source, are the adjustments we have identified appropriate? Are there other adjustments we would need to make to ensure we are accurately identifying the high cost-eligible locations located in the eligible census blocks in each support recipient's service area? Commenters suggesting that different sources should be used or that different adjustments should be made for one support mechanism and not another should explain the characteristics of the particular support mechanism that require different sources or adjustments.

B. Relevant High-Cost Support Mechanisms Specific Uses for the Fabric

1. Rural Digital Opportunity Fund

a. Background

12. In January 2020, the Commission adopted a framework for RDOF to award high-cost support through a multi-round reverse, descending clock auction in unserved areas.²⁹ Bidding concluded in November 2020,³⁰ and currently there are 379 support recipients with authorized winning bids totaling over \$6 billion in support over a 10-year term, covering just under 3.5 million locations in 48 states and one territory.³¹ While authorized bids included a range of performance tiers, over 97% of locations are covered by authorized winning bids for Gigabit speed broadband service.³²

13. Using CAM-estimated location totals, the Commission adopted service milestones for RDOF recipients, requiring support recipients to commercially offer voice and broadband service to 40% of the CAM-calculated number of locations in the relevant eligible census blocks in a state by the end of the third full calendar year following funding authorization, and 20% each year thereafter.³³ To account for disparities between locations on the ground and those estimated by the CAM and to acknowledge its confidence that the Commission would have access to more accurate location data in the next few years, the Commission directed WCB to seek comment on the updated location data and publish revised location counts no later than the end of service milestone year six.³⁴ The Commission indicated that it

²⁸ CAM Methodology at 12-15; A-CAM Methodology at 12-16.

²⁹ *RDOF Order*, 35 FCC Rcd at 688, para. 5. RDOF support was targeted to census blocks that were wholly unserved with fixed voice and broadband service at speeds of 25/3 Mbps, which were identified using the most recent publicly available FCC Form 477 data and a limited challenge process. *Id.* at 690-94, paras. 9-16.

³⁰ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34 et al., Public Notice, 35 FCC Rcd 13888 (WCB and OEA 2020) (*Auction 904 Closing Public Notice*).

³¹ *Rural Digital Opportunity Fund Auction 904 Application Review Concludes; Long-Form Applications Made Public*, AU Docket No. 20-34 et al., Public Notice, DA 23-1185 (WCB Dec. 20, 2023).

³² *Id.*

³³ 47 CFR § 54.802(c)(1); *RDOF Order*, 35 FCC Rcd at 709, para. 45. A support recipient is deemed to be commercially offering voice and/or broadband service if it provides services to the location or could provide it within 10 business days upon request. *Id.* at 711-12, para. 54.

³⁴ *RDOF Order*, 35 FCC Rcd at 709, para. 45.

did not expect these updated location counts would result in significantly increasing the deployment obligations of support recipients, and thus the Commission decided that a support recipient no longer had to maintain a letter of credit to protect the public's funds once it had been verified that the support recipient had met the sixth year service milestone.³⁵

14. The Commission also adopted a framework for how service milestones would be revised in various circumstances after WCB had published more accurate location counts. Specifically, in areas where there are more locations than locations estimated by the CAM, a support recipient has until the end of the eighth calendar year to offer service to the additional locations, and only CAM location counts will be used to measure compliance with interim service milestones up to 100% of CAM locations by the end of the sixth calendar year.³⁶ If the new location count exceeds the CAM location count by more than 35%, an RDOF support recipient can also seek additional support or relief from the Commission.³⁷ Additionally, an RDOF support recipient may seek to have its new location count adjusted to exclude locations that are ineligible, unreasonable to deploy to, or are part of a development that is newly built after the sixth year of support for which the cost and/or time to deploy before the end of the support term would be unreasonable.³⁸

15. If there are fewer locations than estimated by the CAM in a service area, the Commission directed support recipients to notify WCB no later than March 1st following the fifth year of deployment.³⁹ Upon confirmation by WCB, the support recipient will be required to serve 100% of the new number of locations by the end of the sixth calendar year.⁴⁰ If the new location total is less than 65% of the CAM location total, WCB will reduce the support recipient's support on a pro rata basis by the number of reduced locations.⁴¹ The Commission directed RDOF support recipients that discover that there are not enough locations to meet their 40% or 60% service milestones to seek waiver from WCB.⁴²

16. Finally, the Commission required that RDOF support recipients offer service upon reasonable request to locations built after WCB has updated location totals.⁴³ However, the Commission made several exceptions and did not require an RDOF support recipient to serve locations that do not request service, locations with exclusive arrangements with other providers, and locations built after service milestone year eight.⁴⁴

b. Discussion

17. As directed by the Commission, we seek comment on how to implement the Commission's framework for adjusting required location totals based on an updated location data source. Specifically, we seek comment on the timing for when WCB should announce new location totals, how we should adjust support in certain circumstances where there are significantly more or fewer locations in a service area than estimated by the CAM, standards we should use for waivers and determining whether requests for service are reasonable, and how we should apply the framework to support

³⁵ *Id.* at 731, para. 103.

³⁶ 47 CFR § 54.802(c)(1)(i); *RDOF Order*, 35 FCC Rcd at 710, para. 49.

³⁷ 47 CFR § 54.802(c)(1)(i); *RDOF Order*, 35 FCC Rcd at 710, para. 49.

³⁸ *RDOF Order*, 35 FCC Rcd at 710-11, para. 50.

³⁹ 47 CFR § 54.802(c)(1)(ii); *RDOF Order*, 35 FCC Rcd at 711, para. 51.

⁴⁰ 47 CFR § 54.802(c)(1)(ii); *RDOF Order*, 35 FCC Rcd at 711, para. 51.

⁴¹ 47 CFR § 54.802(c)(1)(ii); *RDOF Order*, 35 FCC Rcd at 711, para. 51.

⁴² *RDOF Order*, 35 FCC Rcd at 711, para. 51.

⁴³ 47 CFR § 54.802(c)(1)(iii); *RDOF Order*, 35 FCC Rcd at 711, para. 52.

⁴⁴ *RDOF Order*, 35 FCC Rcd at 711, para. 52.

recipients that have multiple performance tiers associated with their winning bids.

(i) Timing for Revised Location Totals

18. Given the Commission's direction that WCB adopt revised location totals by the end of the sixth calendar year,⁴⁵ we seek comment on when WCB should consult the location data source to identify the relevant residential and small business units and announce revised location totals. If WCB adopts its proposal to use the Fabric as the location source for RDOF, we propose that WCB announce revised location totals for each support recipient within a reasonable time after the Fabric version expected to be released in June 2027 is made available to licensees. The FCC typically releases an updated Fabric approximately every six months,⁴⁶ in around June and December. We expect that using the version of the Fabric that is expected to be released in June 2027 would provide sufficient time for WCB to recalculate location totals prior to December 31, 2027, which is the sixth year service milestone for RDOF support recipients authorized in 2021.

19. We anticipate that using the version of the Fabric expected to be released in June 2027 will balance our objectives of ensuring that the revised location totals are based on the most up-to-date location data and also giving support recipients notice of their revised location totals prior to the sixth year service milestone. Because support recipients will have the opportunity to access earlier versions of the Fabric, they will be able to monitor the addition of any locations to the Fabric and plan accordingly so they are prepared to serve any new BSLs once revised location totals are announced. We seek comment on this proposal and on whether there are any sound reasons for adopting and announcing revised location totals earlier or later than proposed. Commenters proposing that WCB use different location data sources for RDOF should address timing considerations for their proposed sources.

20. We also propose to adopt revised location totals for all support recipients at the same time, rather than waiting to the following year to adopt revised location totals for support recipients authorized in 2022 and 2023.⁴⁷ Such an approach may mean that locations built after we announce revised location totals will not be included in the new totals and that support recipients authorized in 2022 and 2023 will have an extra year to meet their eighth year service milestone if they have newly identified locations when compared to those authorized in 2021. However, we expect the benefits of the administrative efficiency of determining and announcing all revised location totals at once will outweigh any potential concerns this approach may raise, particularly given that any locations built after the revised location totals and prior the end of the eighth year of support will be subject to the requirement that the support recipient serve the location upon reasonable request.⁴⁸ We seek comment on this rationale and on any other suggestions for how we can reconcile the requirement to announce revised locations by the sixth year service milestone with the fact that RDOF authorizations span multiple years.

(ii) More Locations than Included in the RDOF Auction

21. We seek comment on how to implement the Commission's framework for support recipients that must deploy to additional locations once WCB announces revised location totals. Specifically, we seek comment on implementing the Commission's decision to give an opportunity for those support recipients to seek additional support relief if their new location count exceeds the CAM

⁴⁵ *Id.* at 709, para. 45.

⁴⁶ *Fabric Challenges Best Practices Public Notice* at 1.

⁴⁷ Support recipients authorized in 2022 and 2023 have the same service milestones and must serve 100% of CAM estimated locations by December 31, 2028. *Rural Digital Opportunity Fund Support for 1,764 Winning Bids Ready to be Authorized; Bid Defaults Announced*, AU Docket No. 20-34 et al., Public Notice, DA 22-1321 (WCB/OEA Dec. 16, 2022).

⁴⁸ *RDOF Order*, 35 FCC Rcd at 711, para. 52.

locations within their service area in each state by more than 35%.⁴⁹ For such support recipients, we propose to increase support on a pro rata basis for each location over the 35% threshold based on the average support amount per location.⁵⁰

22. We also seek comment on any alternatives. For example, we could require a support recipient to seek a waiver of the requirement to serve a certain number of locations, but we expect it would be administratively burdensome to have to address such waivers on a case-by-case basis. Further, such an approach would potentially leave locations stranded without service and ineligible for other funding programs. As another alternative, we could provide additional time for locations above the 35% threshold to be served, but this would further delay the provision of broadband to these locations.

23. Additionally, we seek comment on whether WCB should set any parameters for the flexibility support recipients have to seek to have their new location counts adjusted to exclude additional locations. Specifically, the Commission explained that support recipients could seek to exclude additional locations that it determines are ineligible, unreasonable to deploy to, or part of a development newly built after year 6 for which the cost and/or time to deploy would be unreasonable.⁵¹ Should we set up a process by which support recipients must notify us that their new location total includes locations that they would like to be excluded so that those locations can become eligible for other funding programs? Should we require that support recipients notify us in the relevant docket by a specific date during the support term? Are there any standards or procedures we could adopt to balance this flexibility with the Commission's goal of "seek[ing] to ensure the availability of broadband and voice services to as many rural consumers and small businesses . . . by the end of the ten-year term as possible"?⁵²

24. For example, we propose that if a support recipient seeks to have its new location total adjusted to remove locations it claims are ineligible, that support recipient must first successfully challenge the location as part of the BDC's Fabric challenge process if we use the Fabric to revise location totals.⁵³ This would enable us to conserve administrative resources by leveraging the Commission's existing process and would also help to maintain consistency between the Fabric and the support recipient's obligations.

25. We also seek comment on what criteria we should consider when determining whether a location is unreasonable to serve.⁵⁴ Given the Commission's goal of maximizing RDOF support to serve as many consumers and small businesses as possible,⁵⁵ we expect that we would not routinely grant requests to exclude locations from a support recipient's new location total.

⁴⁹ *Id.* at 710, para. 49

⁵⁰ As an example, if a RDOF support recipient's original CAM-estimated location total is 100 locations for \$10,000 in support over the 10-year term and its revised location total is 138 locations, we propose increasing the support recipient's support by approximately \$217.38. The average support per location would be approximately \$72.46 (\$10,000 divided by 138 = \$72.46 (rounded to the nearest cent)) and the support recipient would receive an increase in support for three locations because three locations exceed the 35% threshold (\$72.46 x 3 = \$217.38).

⁵¹ *RDOF Order*, 35 FCC Rcd at 710-11, para. 50.

⁵² *Id.* at 710, para. 47.

⁵³ Individual challenges can be made directly on the FCC National Broadband Map. Federal Communications Commission, National Broadband Map, <https://broadbandmap.fcc.gov/home> (last visited Jan. 25, 2024). *See also Broadband Data Task Force Publishes Specifications for Bulk Fixed Availability Challenge and Crowdsourced Data*, WC Docket No 19-195 et al., Public Notice, 37 FCC Rcd 10626 (BDTAF/WCB/OEA 2022).

⁵⁴ *RDOF Order*, 35 FCC Rcd at 710-11, para. 50.

⁵⁵ *Id.* at 710, para. 47.

(iii) Fewer Locations than Included in the RDOF Auction

26. We seek comment on how to implement the Commission's framework for support recipients that have fewer actual locations in the eligible census blocks in their service area than estimated by the CAM.

27. *Prior to the sixth year service milestone.* First, the Commission directed support recipients to notify WCB no later than March 1st following the fifth year of deployment if there are fewer locations than were included in the RDOF auction.⁵⁶ We propose that if such a support recipient claims to have served all existing locations in the eligible census blocks prior to WCB announcing revised location totals, we would permit the support recipient to rely on the latest version of the Fabric available to Fabric licensees to demonstrate that there are no other locations left to serve and to request a verification that it has served all the locations identified in the Fabric. If a verification determines that the support recipient has served all existing locations prior to the sixth year service milestone, we propose permitting the support recipient to close out its letter of credit. We expect changes in the Fabric will not be significant enough that it would be necessary for support recipients to keep their letters of credit open to secure any additional deployment that may be required after WCB revises location totals.⁵⁷ Moreover, any non-compliance issues can be handled pursuant to the Commission's rules.⁵⁸ We seek comment on these assumptions and on whether it would be more advantageous to take another approach like requiring support recipients to wait until WCB announces the revised support totals before closing out their letters of credit once their deployment has been verified.

28. Because a support recipient with fewer locations than estimated by the CAM must serve all of its initial, model-estimated locations by the sixth year service milestone,⁵⁹ we seek comment on requiring a support recipient that has already been verified to have served all existing locations to serve any locations that are newly identified prior to the sixth year service milestone, up to the CAM-estimated location total. If we were to adopt this approach, should WCB announce after each Fabric release whether there are any new locations identified by the Fabric in the eligible census blocks served by a support recipient which we already verified has served all previously existing locations? If so, should WCB require that the support recipient serve the newly identified locations by the sixth year service milestone at the latest or by some other reasonable amount of time after WCB announces the newly identified locations? We seek comment on the administrative challenges of monitoring the Fabric to identify new locations on a rolling basis and on the burdens of having to serve newly identified locations prior to the sixth year service milestone.

29. As an alternative, should WCB instead wait until it officially revises location totals for all support recipients to identify any newly added locations for those support recipients that WCB has already verified have served 100% of existing locations? If so, should such support recipients have until the eighth year service milestone to serve any of the newly identified locations? Are there any other alternatives for how we can ensure that new locations are timely served?

30. We seek comment on, for added protection, whether and how we should withhold a certain percentage of support for support recipients if we permit them to close out their letters of credit prior to sixth year service milestone because there are fewer existing locations than estimated by the CAM and we have verified they have served all existing locations. For example, should we withhold

⁵⁶ *Id.* at 711, para. 51.

⁵⁷ *See also id.* at 731, para. 103 (permitting RDOF support recipients to close out their letters of credit once it has been verified they have met the sixth year service milestone because the Commission does not "expect new additional locations in years seven and eight to be significant enough that it would be necessary to secure that additional deployment with a letter of credit . . .").

⁵⁸ *See, e.g.*, 47 CFR § 54.320.

⁵⁹ *RDOF Order*, 35 FCC Rcd at 711, para. 51.

support for all RDOF support recipients, or because WCB will only reduce support once it announces revised location totals if the revised location total is less than 65% of the CAM-estimated locations,⁶⁰ should we only withhold support in circumstances where the number of locations the RDOF support recipient has served is less than 65% of the CAM-estimated total? Should we withhold support on a pro rata basis based on the gap between the CAM-estimated locations and the locations that do exist?⁶¹ As an alternative, should we withhold support on a pro rata basis for only the number of locations that bring the location total below the 65% threshold, if applicable?⁶² Should the support recipient be entitled to have all of its withheld support restored and its support payments resumed for any newly added locations once it has demonstrated that it is now offering the required service to any newly added locations? Or, for administrative efficiency, should support be restored and support payments resumed after the six year service milestone once it has been verified how many locations the support recipient has served? Given the Commission's rules provide broad authority to take other non-compliance measures, is it even necessary to withhold support to protect the public's funds under these circumstances?⁶³ We also seek comment on any alternatives, with a particular focus on how to balance administrative efficiency with our responsibility to protect the public's funds.

31. If a support recipient is unable to meet interim service milestones because there are significantly fewer existing locations than estimated by the CAM, the Commission directed such support recipients to seek a waiver of the relevant interim service milestones.⁶⁴ We propose finding good cause exists to waive the relevant interim service milestones if the support recipient demonstrates with Fabric data that it has identified all existing locations in its service area and USAC verifies that the support recipient offers service meeting the relevant Commission requirements to all existing locations. Generally, the Commission's rules may be waived for good cause shown.⁶⁵ Waiver of the Commission's rules is appropriate only if both: (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.⁶⁶

32. We propose finding that the fact that the Fabric shows that there are no more locations to serve in the relevant service area would constitute special circumstances to warrant a waiver. Moreover, we would find the waiver would serve the public interest because the support recipient could use any resources tied up by maintaining a letter of credit towards deploying more voice and broadband service, and the Commission would still have the ability to take further non-compliance measures if the support recipient does not serve any newly added locations as required. We seek comment on our proposal and on any alternative approaches. For example, WCB could handle waivers on a case-by-case basis, but we expect such an approach to be unnecessarily onerous for both the petitioner and WCB when there is already an objective data source that both can rely on to confirm the existence of locations.

33. *Post WCB's announcement of revised location totals.* We seek comment on how to implement the requirement that WCB reduce support for those support recipients for which the revised

⁶⁰ *Id.* at 711, para. 51.

⁶¹ For example, if the location total is 10 locations and only five exist, WCB would withhold support for five locations.

⁶² For example, if the location total is 10 locations and only 5 exist, WCB would withhold support for two of the five locations because if three locations were missing, the provider would have served 70% of the CAM-calculated total—the additional two locations pushes the percentage of total locations served below 65%.

⁶³ *See, e.g.*, 47 CFR § 54.320(c).

⁶⁴ *RDOF Order*, 35 FCC Rcd at 711, para. 51.

⁶⁵ 47 CFR § 1.3.

⁶⁶ *See Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157-59 (D.C. Cir. 1969), *cert. denied*, 93 S.Ct. 461 (1972) (*WAIT Radio*)) (*Northeast Cellular*).

location count is less than 65% of the CAM locations.⁶⁷ We propose interpreting the Commission's direction that support be reduced on a pro rata basis by the number of reduced locations to mean that WCB would apply the pro rata support reduction to the number of locations that bring the location total below the 65% threshold.⁶⁸ This would avoid the inequity of support recipients being subject to no support reduction if their revised location total is 65% of the CAM-estimated location total, but being subject to a pro rata support reduction for all of the locations that make up the gap between the CAM estimated location total and the revised location total if their revised location total is 64% or less of the CAM estimated location total.

(iv) Multiple Performance Tiers

34. A number of support recipients were authorized to receive support for multiple performance tiers in a state.⁶⁹ We propose that when revising the location totals for such support recipients, we proportionally adjust their location totals for each performance tier so that we maintain the same ratio of locations across all performance tiers for the new location total as what was authorized under the initial deployment obligation.⁷⁰ This approach is consistent with the Commission's direction that compliance with service milestones be determined at the state level, so that a recipient will be in compliance with service milestones if it offers service meeting the relevant performance requirements to the required percentage of locations across all of the relevant eligible census blocks in the state.⁷¹ As an alternative, should we just require that the support recipient serve more locations at the higher speed tier than the lower speed tier without requiring the support recipient to serve a set percentage of locations at each speed tier? We seek comment on these options and on whether any other approaches would better align with such support recipients' deployment plans. For example, WCB could assign any new locations the performance tier associated with the census block where the location is located. This approach could better reflect RDOF support recipients' initial plans given a winning bidder had to assign a performance tier to each census block group when bidding, but the approach would not account for the flexibility the Commission afforded RDOF support recipients when deciding to measure compliance on a state-level basis.

(v) Newly Built Locations

35. RDOF support recipients must offer the required service upon reasonable request to any locations built after WCB announces revised location totals and prior to the end of the eighth year of support, excluding any locations that do not request service or that have exclusive arrangements with

⁶⁷ *RDOF Order*, 35 FCC Rcd at 51.

⁶⁸ *Id.* at 51. For example, if an applicant has a location total of 100, and the new count is only 20 locations, WCB would reduce support on a pro rata basis by multiplying the average support amount in the state by 45 locations (80 missing locations minus 35 locations that would not have been subject to a support reduction if they were the only locations that were missing).

⁶⁹ See Federal Communications Commission, Auction 904: Rural Digital Opportunity Fund, "Results" tab, <https://www.fcc.gov/auction/904> (last visited Jan. 25, 2024); *RDOF Order*, 35 FCC Rcd at 702-05, paras. 31-37 (describing the RDOF performance tiers and latency levels).

⁷⁰ For example, if a RDOF support recipient was authorized to offer Gigabit service to 50 locations and Above Baseline to 50 locations, and then 20 additional locations are added when WCB revises the location totals, WCB would adjust the location count so that the RDOF support recipient would have to serve 10 additional locations at Gigabit and 10 additional locations at Above Baseline.

⁷¹ *RDOF Order*, 35 FCC Rcd at 712, para. 54. This approach is also consistent with how WCB adjusted location totals for Connect America Fund Phase II auction support recipients that were authorized to receive support for multiple performance tiers in a state and that participated in the Eligible Locations Adjustment Process. *ELAP Resolution Order* at 6, para. 12, n.32.

other providers.⁷² We propose to rely on Fabric data to identify any new locations as of the end of the eighth year of support and confirm compliance with this requirement. We seek comment on this proposal and on whether any other data sources should be consulted.

36. We also seek comment on criteria for determining whether a request is reasonable. What kinds of parameters would appropriately balance the burden on RDOF support recipients of serving newly built locations with the Commission's goal of maximizing RDOF support to serve as many consumers and small businesses as possible?⁷³

2. The Bringing Puerto Rico Together and Connect USVI Funds

a. Background

37. Hurricanes Irma and Marie caused widespread devastation to Puerto Rico and the U.S. Virgin Islands, destroying thousands of homes and causing near total destruction of critical infrastructure.⁷⁴ The Commission took a number of actions to facilitate restoration of communication services in Puerto Rico and the U.S. Virgin Islands, including in 2018 establishing the Bringing Puerto Rico Together Fund and the Connect USVI Fund to award high-cost support in two stages.⁷⁵

38. In Stage 1, the Commission provided approximately \$51.2 million in new support to Puerto Rico and \$13 million to the U.S. Virgin Islands to help provide immediate relief and restore voice and broadband service.⁷⁶ In Stage 2, the Commission adopted a single-round competitive proposal process to allocate Stage 2 support to promote the deployment of advanced, hardened networks to all locations in the Territories.⁷⁷ In 2021, the Bureau authorized \$84,456,870 in Connect USVI Fund Stage 2 support to Liberty Mobile USVI, Inc.⁷⁸ to provide fixed voice and broadband service for a 10-year period to more than 46,000 locations in the U.S. Virgin Islands.⁷⁹ The Bureau also authorized \$127,095,164 in Bringing Puerto Rico Together Fund support to Puerto Rico Telephone Company, Inc. and Liberty Communications of Puerto Rico, LLC collectively to provide fixed voice and broadband service for a 10-year period to more than 1.2 million locations in Puerto Rico.⁸⁰

39. The Commission relied on Census Bureau data to determine the specific deployment obligations for each authorized carrier.⁸¹ Acknowledging the uncertainty of location data following the

⁷² *RDOF Order*, 35 FCC Rcd at 711, para. 52.

⁷³ *Id.* at 710, para. 47.

⁷⁴ *PR-USVI Order*, 33 FCC Rcd at 5404-05, para. 1.

⁷⁵ *See generally id.*

⁷⁶ *Id.* at 5408-09, para. 15.

⁷⁷ *2019 PR-USVI Order*, 34 FCC Rcd at 9114-15, para. 11.

⁷⁸ Liberty Mobile is the successor company of the winning Stage 2 applicant, Broadband VI. *Domestic 214 Application Granted for the Transfer of Control of Broadband VI, LLC to Liberty Mobile USVI, Inc.*, WC Docket No. 21-386, Public Notice, 36 FCC Rcd 17330 (WCB 2021).

⁷⁹ *Connect USVI Fund Stage 2 Support Authorized for Broadband VI*, WC Docket No. 18-43 et al., Public Notice, 36 FCC Rcd 9405 (WCB 2021) (*Broadband VI Authorization Public Notice*).

⁸⁰ *Wireline Competition Bureau Authorizes Stage 2 Support for Puerto Rico Telephone Company and Liberty Communications of Puerto Rico*, WC Docket No. 18-143 et al., Public Notice, 36 FCC Rcd 9914 (WCB 2021) (*PRTC and Liberty Authorization Public Notice*).

⁸¹ *2019 PR-USVI Order*, 34 FCC Rcd at 9143, paras. 60-61; *Wireline Competition Bureau Releases Updated List of Reserve Prices and Location Counts for the Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 Fixed Support Competitive Proposal Process*, WC Docket No. 18-143 et al., Public Notice, 35 FCC Rcd 8228 (WCB 2020).

hurricanes and the compelling need to adequately verify the number of locations, the Commission adopted a location adjustment process within one year after the release of a public notice announcing winning bidders.⁸² As part of this process, the Commission required that support recipients that could not identify enough actual locations must submit evidence of the total number of locations in the eligible areas, including geolocation data, of all the locations it could identify.⁸³ The Commission explained that the process was mandatory for support recipients to ensure accuracy and efficient use of support.⁸⁴ The Commission also directed WCB to provide stakeholders an opportunity to review and comment on the information provided.⁸⁵ If WCB determined by a preponderance of evidence that there were no additional locations, the Commission directed WCB to issue an order and adjust the support recipients' required total location obligation and reduce their support on a pro rata basis.⁸⁶ Moreover, the Commission adopted a fifth-year reassessment, creating a voluntary opportunity for support recipients to request the Commission to carefully review their obligations no later than the beginning of the fifth year of support, and directed WCB to seek comment on any requested reassessment, including the documentation, data, and evidence to put forward to support the request.⁸⁷ WCB will make adjustments to the location totals and support amounts, if WCB determines such adjustments are warranted.⁸⁸

40. In April 2023, the Commission acknowledged that the location adjustment process was delayed.⁸⁹ The Commission explained that WCB expects to implement the adjustment process based on an internal review of the Fabric.⁹⁰

b. Discussion

41. We propose to leverage Fabric data to simplify the location adjustment process for the Bringing Puerto Rico Together Fund and the Connect USVI Fund. Specifically, we propose to require support recipients to submit a document in the relevant docket that identifies when there is a discrepancy between estimated locations and actual locations as shown by the Fabric. Rather than duplicate the map data by requiring support recipients to submit individual geocodes for each location shown by the Fabric, we propose it is sufficient for support recipients to incorporate the data from the Fabric in their filings by reference and certify that the Fabric accurately depicts the number of actual locations in their service

⁸² *2019 PR-USVI Order*, 34 FCC Rcd at 9144-45, paras. 63-65. The Commission noted that the process it adopted was similar to the Eligible Locations Adjustment Process that it adopted for the CAF Phase II auction. *2019 PR-USVI Order*, 34 FCC Rcd at 9144, para. 63. See generally *Connect America Fund et al.*, WC Docket No. 10-90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1389, para. 23 (2018); *ELAP Resolution Order*.

⁸³ *2019 PR-USVI Order*, 34 FCC Rcd at 9145, para. 65.

⁸⁴ *Id.* at 9145, para. 64.

⁸⁵ *Id.* at 9145, para. 65.

⁸⁶ *Id.* at 9145, paras. 64-65. The Commission indicated the new support amount would be calculated by reducing authorized support by (total support/model locations) x number of deficient locations. *2019 PR-USVI Order*, 34 FCC Rcd at 9145, para. 65 n.238. WCB dismissed as untimely and alternatively denied requests to reconsider or review the location adjustment process and pro rate support reduction to align the process with the location recount process adopted for RDOF. *The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, WC Docket No. 18-143 et al., Order on Reconsideration and Order, 35 FCC Rcd 8211, 8213-15, 8219-21, paras. 8-11, 21-27 (WCB 2020).

⁸⁷ *2019 PR-USVI Order*, 34 FCC Rcd at 9145-46, para. 66.

⁸⁸ *Id.* at 9145-46, para. 66; *The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, WC Docket No. 18-143 et al., Report and Order and Order on Review, FCC 23-32, at 5-6, para. 11 n.29 (Apr. 2023) (*PR-USVI Transitional Support Order*).

⁸⁹ *PR-USVI Transitional Support Order* at 5-6, para. 11 n.29.

⁹⁰ *Id.*

area based on their independent review of the relevant area. To the extent a carrier claims that the Fabric does not accurately depict the number of locations, the service recipient must submit challenges as part of the BDC location challenge process to either add or remove locations from the Fabric. We seek comment on whether this proposal meets the Commission's requirement that support recipients submit evidence of existing locations and meets the Commission's objective of adequately verifying the number of locations that exist in the Territories post-hurricane.⁹¹

42. Are there any alternatives that better achieve this objective? For example, since the process is mandatory for all support recipients, should WCB instead conduct an internal review of the Fabric data to identify where there might be discrepancies rather than having the support recipients conduct an independent review and file a notification with the Commission? How would this approach be consistent with the Commission's requirement that the support recipient submit data as part of this process?

43. We propose that rather than provide a separate opportunity for stakeholders to comment on support recipients' filings, we will rely on the BDC's location challenge process for administrative efficiency. For example, once support recipients have notified us that there is a location discrepancy based on Fabric data or WCB alternatively conducts an internal review, we could wait a reasonable amount of time for stakeholders to file challenges to the Fabric to seek to have locations removed or added. We seek comment on this approach and suggestions for how much time we should provide to stakeholders to file challenges and for challenges to be resolved, understanding that the Fabric is only updated twice each year. If we adopt this approach, what would be a reasonable amount of time to wait for challenges? Should we require stakeholders to notify WCB if they are going to file challenges? Is it necessary to wait for challenges from stakeholders if they have already had ample opportunity to challenge the Fabric data prior to this process? That is, rather than set aside a certain amount of time for challenges, should we just rely on any challenges that have already been incorporated into the data at the time WCB conducts its review of the data?

44. Once any challenges to the Fabric from stakeholders have been adjudicated, we propose finding that the support recipient has met its burden of proof to receive a downward adjustment in its location total and a corresponding pro rata support reduction for the number of locations reflected in the Fabric data. Are there any alternative approaches that would better further the Commission's objective of providing stakeholders with an opportunity to review and comment on the existence of locations without duplicating existing Commission processes?

45. When should WCB conduct the location readjustment process? The Commission anticipated that the process would occur within one year of the announcement of winning bidders, but later explained the process had been delayed.⁹² How much time do service providers need to adjust to any changes to their support and location totals so that they can meet the 100% service milestone by December 31, 2027?⁹³

46. We also seek comment on leveraging Fabric data if a support recipient requests a reassessment of its obligations no later than the beginning of the fifth year of support, i.e., 2026. Should we adopt the same or similar process for the reassessment that we adopt for the location adjustment process? What other information might be instructive for WCB to collect from support recipients to reassess their obligations? Given that the adjustment process has been delayed, should we just combine this assessment with the location adjustment process for administrative efficiency? Are there any

⁹¹ 2019 PR-USVI Order, 34 FCC Rcd at 9144, para. 63.

⁹² *Id.* at 9144, para. 63; PR-USVI Transitional Support Order at 5-6, para. 11 n.29.

⁹³ PRTC and Liberty Authorization Public Notice, 36 FCC Rcd at 9916; Broadband VI Authorization Public Notice, 36 FCC Rcd at 9407.

benefits or drawbacks for service providers or the public in giving support recipients an opportunity to have their obligations reassessed independently of the location adjustment process?

47. We also seek comment on how to adjust support if the number of locations in a municipio or island is higher than what was initially determined.⁹⁴ Should WCB increase support on a pro rata basis for any additional locations if the actual number of locations is higher? Are there any other approaches we should use for adjusting support? The Commission has reiterated that Bringing Puerto Rico Together Fund and the Connect USVI Fund support recipients must serve all locations in their supported areas.⁹⁵

3. Alternative Connect America Cost Model I & II

a. Background

48. In 2016, the Commission provided rate-of-return carriers with a voluntary path from traditional rate-of-return support to model-based support and using the A-CAM established a fixed monthly support amount over a 10-year term ending in 2026 in exchange for broadband deployment to a pre-determined number of eligible locations (A-CAM I).⁹⁶ Whether a support recipient was required to offer broadband at speeds of 25/3 Mbps, 10/1 Mbps, 4/1 Mbps or upon reasonable request was based on the housing unit density of the eligible areas in the offer and could be met by serving any eligible location in the support recipient's service area.⁹⁷ The Commission made a subsequent offer to existing A-CAM carriers for more support and increased deployment,⁹⁸ and then another offer for more support, increased deployment, and an extended support term (Revised A-CAM I).⁹⁹ The Commission also made a new model offer for carriers still receiving support pursuant to legacy support mechanisms based on historical costs (A-CAM II).¹⁰⁰

49. The Commission decided that A-CAM support recipients that discover there is a widely divergent number of locations in their funded census blocks as compared to the model should have the opportunity to seek an adjustment to modify their deployment obligations.¹⁰¹ It delegated to WCB the authority to adjust the number of funded locations downward and reduce associated funding levels.¹⁰²

50. In July 2023, the Commission adopted the Enhanced A-CAM support program to support the widespread deployment of 100/20 Mbps broadband service throughout the rural areas served by carriers currently receiving A-CAM support and in areas served by rate-of-return carriers.¹⁰³ While

⁹⁴ *2019 PR-USVI Order*, 34 FCC Rcd at 9145-46, para. 66; *PR-USVI Transitional Support Order* at 6, para. 11 n.29.

⁹⁵ *PR-USVI Transitional Support Order* at 6, para. 11 n.29.

⁹⁶ *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3094-3117, paras. 17-79.

⁹⁷ *Id.* at 3097-98, paras. 23-26.

⁹⁸ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 33 FCC Rcd 2990, 3018-21, paras. 62-68 (2018).

⁹⁹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 33 FCC Rcd 11893, 11900-03, paras. 20-30 (2018) (*December 2018 Rate-of-Return Order*).

¹⁰⁰ *Id.* at 11903-15, paras. 31-69.

¹⁰¹ *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3102, para. 34.

¹⁰² *Id.* at 3102, para. 34.

¹⁰³ *See generally Enhanced A-CAM Order.*

216A-CAM I and A-CAM II carriers at the holding company level accepted Enhanced A-CAM offers,¹⁰⁴ they are still required to report any progress made in 2023 towards their existing A-CAM I and A-CAM II service milestones and will be subject to non-compliance measures if they do not meet those service milestones.¹⁰⁵

b. Discussion

51. We propose to permit A-CAM I & A-CAM II recipients to seek a downward adjustment in their location totals by using the Fabric to demonstrate the actual number of locations in their service areas. Should we adopt the same process we propose above for support recipients of the Bringing Puerto Rico Together Fund and the Connect USVI Fund—i.e., requiring support recipients to request a downward adjustment in the docket and incorporating Fabric data by reference? If so, should we also provide an opportunity for stakeholders to file challenges to the Fabric through the National Broadband Map or in the BDC system in response to the notification or should we rely on prior challenges that are already incorporated into the data at the time of WCB’s review? Should WCB apply a preponderance of the evidence standard consistent with the standard adopted for the CAF Phase II auction Eligible Location Adjustment Process, The Bringing Puerto Rico Together Fund, and the Connect USVI Fund? If so, should WCB find that the standard has been met if it verifies that the Fabric data is consistent with the support recipient’s requested adjustment? We seek comment on these issues and on any alternatives.

52. Although A-CAM recipients have a variety of broadband speed obligations within their service areas, they are able to meet their obligations by deploying to any location within the eligible area.¹⁰⁶ Accordingly, if we grant a downward adjustment in the location total, we propose reducing the location total on a pro rata basis so that we would reduce the number of locations proportionally across all of the speed tiers.¹⁰⁷ Similarly, we also propose to reduce support on a pro rata basis.¹⁰⁸ We seek comment on these proposals and whether WCB should use any alternative approaches for reducing location totals and support amounts.

53. We also seek comment on the timing for when WCB should give A-CAM recipients an opportunity to seek a downward adjustment. For administrative efficiency, should we offer a one-time opportunity for A-CAM recipients to seek a downward adjustment? If so, when would it be an appropriate time to offer this opportunity so as to maximize the number of locations that are identified, but also give support recipients enough time to adjust their plans prior to the end of the support term? For example, we could require that A-CAM providers with support terms that end in 2028 to submit their request for a downward adjustment based on the latest release of Fabric data prior to end of the sixth year support, consistent with the Commission’s requirement that WCB make location adjustments for RDOF recipients, which also have a 10-year support term, prior to the sixth year of support.

¹⁰⁴ *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) (*Enhanced A-CAM Authorization Public Notice*).

¹⁰⁵ *Enhanced A-CAM Order* at 23, para. 49.

¹⁰⁶ See, e.g., *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3100-01, para. 32; *December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11914-15, para. 67.

¹⁰⁷ For example, if a support recipient has to serve eight locations—2 at 25/3 Mbps, 2 at 10/1 Mbps, 2 at 4/1 Mbps and 2 upon reasonable request and based on Fabric data there are only four locations, the support recipient would have to serve 1 at 25/3 Mbps, 1 at 10/1 Mbps, 1 at 4/1 Mbps and 1 upon reasonable request to maintain the same proportion across speed tiers.

¹⁰⁸ We propose reducing authorized support by (total support/model locations) x number of deficient locations.

4. The Alaska Plan

a. Background

54. In 2016, the Commission adopted the Alaska Plan which is based on the Alaska Telephone Association (ATA) consensus proposal to freeze \$1.5 billion in funding over 10 years and allocate that money to maintain, extend, and upgrade fixed and mobile broadband service across certain areas of Alaska.¹⁰⁹ For fixed service, the goal was to support at least 10/1 Mbps service to as many Alaskans as possible, but the Commission permitted carriers to submit commitments at lesser speeds, recognizing that due mainly to the lack of access to adequate facilities necessary to support last mile connections, Alaskan carriers may not be able to serve all their committed locations at 10/1 Mbps.¹¹⁰ Ultimately, WCB authorized 13 rate-of-return carriers to receive Alaska Plan support, with terms ending December 31, 2026.¹¹¹

55. The Commission required participants offering fixed service to commit to upgrade or deploy new voice and broadband service to a specific number of locations by the end of the fifth year of their support term and complete their deployment by the end of the 10th year of their support term.¹¹² However, the deployment obligations were subject to change. The Commission delegated to WCB the authority to approve changes to the fixed deployment obligations if such changes are due to circumstances that did not exist at the time the performance plans were adopted and are consistent with the public interest and *Alaska Plan Order* requirements.¹¹³ The Commission also directed WCB to reassess the fixed deployment obligations in the approved performance plans before the end of the fifth year of support, and to review carriers that lack access to infrastructure and thus cannot commit to maintaining existing Internet access at speeds below 10/1 Mbps on a biennial basis.¹¹⁴ Alaska Plan participants offering fixed service were required to update their end-of-term commitments no later than the end of the fourth year of support.¹¹⁵ In 2021, WCB released a public notice announcing fixed performance obligations for Alaska Plan participants after conducting this midterm review.¹¹⁶ In October 2023, the Commission released a Notice of Proposed Rulemaking seeking comment on the next phase of high-cost fixed and mobile support in Alaska—the Alaska Connect Fund.¹¹⁷

b. Discussion

56. It is our expectation that Alaska Plan participants will offer voice and broadband service to 100% of the locations in remote communities, including those locations not connected to the road system, at performance levels consistent with the type of middle mile commercially available in the community. The rationale is that while the communities are remote and isolated, the locations within the communities are in relatively close proximity. To avoid stranding locations in the Alaska Plan

¹⁰⁹ *Alaska Plan Order*, 31 FCC Rcd 10139.

¹¹⁰ *Id.* at 10145, para. 14.

¹¹¹ *Wireline Competition Bureau Authorizes Alaska Plan Support for 13 Alaskan Rate-of-Return Companies*, WC Docket Nos. 10-90, 16-271, Public Notice, 31 FCC Rcd 13347 (WCB 2016).

¹¹² *Alaska Plan Order*, 31 FCC Rcd at 10149, para. 30.

¹¹³ *Id.* at 10158-59, para. 63.

¹¹⁴ *Id.* at 10158, paras. 61-62.

¹¹⁵ *Id.* at 10158, para. 61.

¹¹⁶ *Wireline Competition Bureau Announces Performance Obligations for Rate-of-Return Alaska Plan Recipients After the Midterm Review*, WC Docket No. 10-90 et al., Public Notice, 36 FCC Rcd 18171 (WCB 2021).

¹¹⁷ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Notice of Proposed Rulemaking et al., FCC 23-87 (Oct. 20, 2023).

participants' service areas without access to broadband service, we propose to use Fabric data to identify all locations within each Alaska Plan participant's service area and adjust the Alaska Plan recipient's required location total to account for any locations not already included in the location total pursuant to WCB's delegated authority to approve changes to deployment obligations.¹¹⁸ We seek comment on whether Fabric data is the best source for identifying such locations, and whether other sources should be used including submissions from the carrier.

57. Specifically, we could conclude that a comprehensive source like the Fabric had not been released when deployment obligations were reassessed in 2021 and that it would serve the public interest to further revise deployment obligations to ensure they accurately reflect the facts on the ground. If we were to take this step, when would be an appropriate time to revise deployment obligations so that Alaska Plan participants are able to complete deployment to all relevant locations by the end of the support term, i.e., December 31, 2026? Should stakeholders have a defined period of time to make any final challenges to the Fabric through the National Broadband Map or in the BDC system so that the revised obligations incorporate any successful challenges? What other steps could WCB take to make certain that all locations in Alaska Plan recipients' service areas have access to voice and broadband service through the Alaska Plan?

IV. PROCEDURAL MATTERS

58. *Initial Paperwork Reduction Act.* This document contains proposed new or modified information collection requirements. The Commission as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

59. *Supplemental Initial Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980 (RFA),¹¹⁹ the Bureau has prepared this Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Public Notice. The supplemental IRFA supplements the Commission's Initial Regulatory Flexibility Analyses (IRFAs) in connection with the *USF/ICC Transformation FNPRM*,¹²⁰ *April 2014 Connect America FNPRM*,¹²¹ *2018 Rate-of-Return Reform NPRM*,¹²² and *Rural Digital Opportunity Fund NPRM (NPRMs and FNPRMs)*,¹²³ and Final Regulatory Flexibility Analyses (FRFAs) in connection with the *USF/ICC Transformation Order*,¹²⁴ *2016 Rate-of-Return Reform Order*,¹²⁵ *2018 Rate-of-Return Reform Order*,¹²⁶ *Alaska Plan Order*,¹²⁷ and *Rural Digital*

¹¹⁸ *Alaska Plan Order*, 31 FCC Rcd at 10158-59, para. 63.

¹¹⁹ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public L. No. 104-121, Title II, 110 Stat. 857 (1996).

¹²⁰ *USF/ICC Transformation FNPRM*, 26 FCC Rcd at 18364-95, Appx. P.

¹²¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 29 FCC Rcd 7051, 7216-44, Appx. D (2014) (*April 2014 Connect America FNPRM*).

¹²² *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order et al., 33 FCC Rcd 2990, 3070-94, Appx. C (2018) (*2018 Rate-of-Return Reform NPRM*).

¹²³ *Rural Digital Opportunity Fund et al.*, WC Docket Nos. 19-126, 10-90, Notice of Proposed Rulemaking, 34 FCC Rcd 6778, 6821-34, Appx. B (2019) (*RDOF NPRM*).

¹²⁴ *USF/ICC Transformation Order*, 26 FCC Rcd at 18324-63, Appx. O.

¹²⁵ *2016 Rate-of-Return Order*, 31 FCC Rcd at 3286-3314, Appx. D.

Opportunity Fund Order.¹²⁸ Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for comments specified on the first page of this Public Notice. The Commission will send a copy of this Public Notice, including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).¹²⁹ In addition, this Public Notice and Supplemental IRFA (or summaries thereof) will be published in the *Federal Register*.¹³⁰

60. *Need for, and Objectives of, the Proposed Rules.* This Public Notice proposes to leverage the Fabric, the “common dataset of all locations in the United States where fixed broadband internet access service can be installed, as determined by the Commission,”¹³¹ to provide recipients with a reliable data source for determining locations and to maximize the number of consumers that are served by recipients of various High-Cost support mechanisms. This includes using the Fabric to identify the actual number of residential and small businesses in each relevant high-cost support recipient’s service area. The Commission delegated to WCB the authority to revise deployment obligations, and adjust funded locations and funding levels for support recipients’ service areas.¹³² For RDOF, the Public Notice seeks to determine how to implement the Commission’s framework for adjusting required location totals based on an updated location source. For the Bringing Puerto Rico Together Fund and the Connect USVI Fund, the Public Notice proposes and seeks comment on procedures for leveraging Fabric data to simplify the location adjustment process for these programs. For A-CAM I & II, the Public Notice considers permitting recipients to seek a downward adjustment in their location totals by using the Fabric to demonstrate the actual number of locations in their service areas. For the Alaska Plan, the Public Notice seeks to determine whether and how to adjust participants’ required location totals to include all locations within each Alaska Plan participants’ service area as identified by the Fabric.

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¹²⁶ *2018 Rate-of-Return Order*, 33 FCC Rcd at 11992-12016, Appx. C.

¹²⁷ *Alaska Plan Order*, 31 FCC Rcd at 10189-200, Appx. B.

¹²⁸ *RDOF Order*, 35 FCC Rcd at 758-772, Appx. B. The Commission did not prepare an IRFA or FRFA for the Bringing Puerto Rico Together Fund and the Connect USVI Fund because the Commission anticipated that the rules adopted for these programs would not affect a substantial number of small entities. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9186, paras. 163-66; *The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, WC Docket No. 18-143 et al., Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, 5428-29, paras. 102-103 (2018). The Commission sought written public comment on the proposals in the *NPRMs and FNPRMs*, including comments on the IRFAs. The Commission received comments in response to the *USF/ICC Transformation Order* IRFA, but did not receive any comments in response to the other Regulatory Flexibility Analyses. *USF/ICC Transformation Order*, 26 FCC Rcd at 18333, Appx. O. The comments received in response to the *USF/ICC Transformation Order* IRFA were addressed in the *USF/ICC Transformation Order FRFA*,¹²⁸ and did not specifically address the issues that we seek comment on in this Public Notice. *Id.*; See Letter from Brenda Crosby, President, Cascade Utilities, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, et al., at 3 (filed Apr. 6, 2011); Comments of Molalla Telephone Company at 3 (filed Apr. 18, 2011); Letter from John Hemphill, Vice President, Pine Telephone System, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, et al., at 3 (filed Mar. 30, 2011); Letter from Dave Osborn, Valley Telephone Cooperative, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, et al., at 3-4 (filed Aug. 29, 2011).

¹²⁹ See 5 U.S.C. § 603(a).

¹³⁰ *Id.*

¹³¹ 47 U.S.C. § 642(b)(1)(A)(i).

¹³² See, e.g., *Rural Digital Opportunity Fund Order*, 35 FCC Rcd at 709-12, paras. 45-52; *2019 PR-USVI Order*, 34 FCC Rcd at 9144-46, paras. 63-66; *2016 Rate-of-Return Order*, 31 FCC Rcd at 3102, para. 34; *Alaska Plan Order*, 31 FCC Rcd at 10158-59, para. 63.

61. *Legal Basis.* The statutory basis for the Bureau’s proposed action is authorized pursuant to sections 4(i), 5(c), 214, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C §§ 154(i), 155(c), 214, 254, 303(r), and 403.

62. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.¹³³ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹³⁴ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹³⁵ A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹³⁶

63. As noted above, Regulatory Flexibility Analyses were incorporated in the *USF/ICC Transformation FNPRM*,¹³⁷ *April 2014 Connect America FNPRM*,¹³⁸ *2018 Rate-of-Return Reform NPRM*,¹³⁹ *Rural Digital Opportunity Fund NPRM*,¹⁴⁰ *USF/ICC Transformation Order*,¹⁴¹ *2016 Rate-of-Return Reform Order*,¹⁴² *2018 Rate-of-Return Reform Order*,¹⁴³ *Alaska Plan Order*,¹⁴⁴ and *Rural Digital Opportunity Fund Order*.¹⁴⁵ In those analyses, the Commission described in detail the small entities that might be significantly affected. Accordingly, in this Public Notice, for the Supplemental IRFA, we hereby incorporate by reference the descriptions and estimates of the number of small entities from these previous Regulatory Flexibility Analyses.

64. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* For the relevant High-Cost programs, the Public Notice proposes and seeks comment on streamlined procedures that will leverage existing processes for maintaining the accuracy of the Fabric to minimize the burdens on support recipients, including small businesses, in

¹³³ 5 U.S.C. § 603(b)(3).

¹³⁴ 5 U.S.C. § 601(6).

¹³⁵ 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

¹³⁶ 15 U.S.C. § 632.

¹³⁷ *USF/ICC Transformation FNPRM*, 26 FCC Rcd at 18364-95, Appx. P.

¹³⁸ *April 2014 Connect America FNPRM*, 29 FCC Rcd at 7216-44, Appx. D.

¹³⁹ *2018 Rate-of-Return Reform NPRM*, 33 FCC Rcd at 3070-94, Appx. C.

¹⁴⁰ *Rural Digital Opportunity Fund Order*, 34 FCC Rcd at 6821-34, Appx. B.

¹⁴¹ *USF/ICC Transformation Order*, 26 FCC Rcd at 18324-63, Appx. O.

¹⁴² *2016 Rate-of-Return Order*, 31 FCC Rcd at 3286-3315, Appx. D.

¹⁴³ *2018 Rate-of-Return Order*, 33 FCC Rcd at 11992-12016, Appx. C.

¹⁴⁴ *Alaska Plan Order*, 31 FCC Rcd at 10189-200, Appx. B.

¹⁴⁵ *RDOF Order*, 35 FCC Rcd at 758-772, Appx. B. The Commission did not prepare an IRFA or FRFA for the Bringing Puerto Rico Together Fund and the Connect USVI Fund because the Commission anticipated that the rules affected for these programs would not affect a substantial number of small entities. *PR-USVI Stage 2 Order*, 34 FCC Rcd at 9186, paras. 163-66; *The Uniendo a Puerto Rico Fund and the Connect USVI Fund*, WC Docket No. 18-143 et al., Order and Notice of Proposed Rulemaking, 33 FCC Rcd 5404, 5428-29 (2018).

demonstrating how many actual locations are within their service areas. These proposals may require modifications to the current compliance obligations for small and other providers based upon the proposed methodologies for adjusting support for RDOF, A-CAM, Bringing Puerto Rico Together Fund, and Connect USVI Fund providers based on the number of locations in their service areas that may impact their ability to meet their service obligations. Additionally, the compliance obligations for small and other providers may be impacted by proposals on certain parameters for identifying the locations that high-cost recipients are required to serve—for generally identifying which Fabric locations are relevant to the high-cost support obligations, and more specifically for identifying which locations must be served after the Bureau conducts its recount for RDOF—which may result in an increase or decrease in the number of locations certain support recipients, including small businesses, are required to serve. The Commission anticipates the proposals discussed in the Public Notice will have minimal cost implications because they impact recipients who are currently receiving support from the relevant programs and much of the required information is already collected to ensure compliance with the terms and conditions of support.

65. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”¹⁴⁶

66. Among the alternatives considered that may impact small entities is whether we should require RDOF support recipients to seek a waiver of, or require additional time to meet, the requirement to serve more locations when their new location count exceeds the CAM locations within their service areas in each state by more than 35%, though addressing such waivers on a case-by-case basis may prove to be administratively burdensome and potentially leave locations stranded without service and ineligible for other funding programs. We also consider whether WCB should wait until it officially revises location totals for all support recipients to identify any newly added locations for those RDOF support recipients that WCB has already verified serve 100% of existing locations, and if so, whether these recipients should have until the eighth year service milestone to serve any of the newly identified locations. Additionally, in regards to multiple performance tier requirements, we consider whether after the recount we should require that the RDOF support recipients serve more locations at the higher speed tier than the lower speed tier without requiring that the support recipient serve a set percentage of locations at each speed tier, or instead whether we should assign locations the performance tier associated with the census block where the location is located. When a carrier receiving Bringing Puerto Rico Together Fund or Connect USVI Fund support claims that Fabric does not accurately depict the number of locations, we consider whether WCB should conduct an internal review of the Fabric data to identify where there might be discrepancies instead of having the support recipients conduct an independent review and file a notification with the Commission. Before reaching any final conclusions and taking any final actions however, the Bureau expects to review the comments filed in response to the Public Notice and more fully consider the economic impact and alternatives for small entities.

67. As noted above, we seek comment on how the proposals in this Public Notice could affect the IRFAs and FRFAs. Such comments must be filed in accordance with the same filing deadlines for responses to this Public Notice and have a separate and distinct heading designating them as responses to the IRFAs and FRFAs.

¹⁴⁶ 5 U.S.C. § 603(c)(1)-(4).

68. *Instructions for Filing Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19.¹⁴⁷ *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand Delivery Policy*, Public Notice, 35 FCC Rcd 2788, 2788-89 (OS 2020).

69. Comments and reply comments exceeding 10 pages must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the Public Notice in order to facilitate our internal review process.

70. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202)418-0530 (voice), (202)418-0432 (tty).

71. *Ex Parte Presentations- Permit-But-Disclose.* The proceeding this Public Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.¹⁴⁸ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons

¹⁴⁷ *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, 35 FCC Rcd 2788 (OS 2020), <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-andchanges-hand-delivery-policy>.

¹⁴⁸ 47 C.F.R. §§ 1.1200 *et seq.*

attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

72. *Providing Accountability Through Transparency Act*: Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of this document will be available on <https://www.fcc.gov/proposed-rulemakings>.

73. *Contact Person*. For further information about this proceeding, please contact, Heidi Lankau, Attorney Advisor, Telecommunications Access Policy Division, Wireline Competition Bureau, at Heidi.Lankau@fcc.gov.