

**STATEMENT OF COMMISSIONER MICHAEL O'RIELLY
APPROVING IN PART AND DISSENTING IN PART**

Re: Connect America Fund, WC Docket No. 10-90; ETC Annual Reports and Certifications, WC Docket No. 14-58

The order makes several important decisions that should bring us closer to starting the Connect America Fund (CAF) Phase II auction. I support the order on reconsideration, as well as the decisions to refrain from adopting additional bidding credits or preferences in this auction, including for particular states or Tribal lands. At the same, I do have strong disagreements with other aspects of the order.

When the Commission adopted the framework for the CAF Phase II auction last year, it was the result of many months of hard work and discussion to ensure that the framework would set the stage for a vibrant and competitive auction free from political interference or technology biases. Even as I led this effort, I observed that setting weights for the four service tiers, a decision deferred until now, would be critical to preserving the balance between broadband performance and cost-effectiveness. I made clear my goal was to maximize participation in the auction, in order to drive down subsidies and expand coverage to as many consumers as possible. And I cautioned that if the weighting skews the auction results such that a few communities receive Gigabit service, but many more have no access at all, then the auction will have failed to deliver on our obligations of universal service.

We received a number of proposals in the record. Not surprisingly, the proposals tended to lean in one direction or another depending on the filer's preferred technology. After conferring with staff, it became apparent that we could not predict with any certainty the impact of any particular proposal, especially given the rushed timeframe. However, it did seem that proposals with a narrower range were more likely to garner bidders from all tiers, promoting a robust auction and maximizing coverage. Unfortunately, this order adopts a broader range than what had even been circulated on White Copy, and now appears designed to favor the highest speed tiers at the expense of more people getting broadband. I support the goal of providing consumers with high-quality broadband service, but as I've said before, we should buy fewer Lamborghinis and more Chevys. The order also places a penalty on latency that is unreasonably severe given prior Commission action to set a tough but achievable latency standard that was specifically selected to ensure sufficient quality for most purposes, including voice calls. Additionally, the particular weights adopted in this order were decided at the last moment with what appears to be little to no factual basis, with merely a plea for deference. We have not had the benefit of public comment on this particular structure, and could end up in a position where we must reconsider them, something I would be very open to considering and reviewing.

I am concerned that the tiers adopted today will have the effect of spending a disproportionate amount of funding on services that far exceed what we can afford, and concentrating that funding in relatively low-cost areas. The impact of tipping the scales is far from trivial. According to one filing, it could mean the difference in serving hundreds of thousands of additional locations. Another commenter presented maps that showed, in stark detail, the parts of the country that may go unserved by CAF Phase II if the tiers have the effect of excluding certain technologies. This thinly disguised end run around the important principle of technology neutrality, heaps a heavier load on the already underfunded and barely conceptualized Remote Areas Fund (RAF) – and after having spent nearly all of our high-cost budget.

Moreover, the order further constrains the RAF by deciding to set aside subsidies for certain states. This decision is the unfortunate, yet inevitable, outgrowth of the recent New York order that I warned would happen. I realize that consumers in areas served by price cap carriers that declined the Commission's prior offer of funding need to be served. At the same time, there are unserved high-cost and extremely high-cost areas in other states that have been awaiting the promise of the Remote Areas

Fund just as long, and it is equally important to connect consumers in these areas as well. The Commission's objective is to ensure that our high-cost programs promote broadband deployment to consumers throughout the Nation – including those in areas that were declined and places that never received offers in the first instance. Differentiating amongst unserved consumers depending on whether they are in a territory of a carrier that received an offer of support does not serve that objective. That is particularly true when it comes to the RAF, which is the final backstop for unserved communities. Promising set asides is a quick way to guarantee inefficiency, waste and higher costs. More importantly, this isn't what the representatives from those states were seeking, so it doesn't actually solve anything.

Therefore, I approve in part and dissent in part.