

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Rural Digital Opportunity Fund*, WC Docket No. 19-126; *Connect America Fund*, WC Docket No. 10-90.

This Notice takes necessary and appropriate first steps in establishing the FCC's largest and most ambitious universal service funding auction to date, and I am pleased to support it. Having been a longstanding proponent of reverse auctions to award USF support, I appreciate that this item proposes to adopt many of the same terms as the CAF Phase II auction. Distributing broadband funding in this manner is far more cost-effective than doing so via beauty contest-like grants, and our use of an auction mechanism is one reason I have urged Congress to direct any new federal broadband funding to the Commission. The current item's raw framework is the appropriate departure point to stretch scarce dollars as far as possible and bring broadband to many Americans without service.

In travelling our great country, I have witnessed firsthand those communities lacking broadband availability. For the most part, they were located in areas reportedly served by a price cap carrier. Fundamentally, today's item revisits the Commission's previous error in judgment that led to the creation of a CAF Phase II right of first refusal for price cap carriers in 2011. While many price cap carriers did deploy broadband in parts of their territory, we should be much further along given the billions of dollars that have already been spent.

Today, we are effectively opening access to federal support for any price cap area not adequately served already, as well as other unserved areas, in a relatively technology-neutral manner. I was a strong advocate of the latter principle in designing the CAF II auction and support its application here as well. While many tend to prefer fiber-based solutions, our resources are not unlimited, and our job is to get broadband to all Americans, regardless of technology. We simply cannot afford to exclude satellite-based providers, especially given the new and exciting possibilities satellite offerings can offer.

That being said, I had concerns about certain proposals in the item when it first circulated. Having included such a broad swath of areas eligible for the auction, I was worried that the draft did not contain sufficient incentives for providers to bid on those hardest-to-serve census blocks that have never received broadband funding and completely lack broadband infrastructure. Unlike the CAF II areas accepted by price cap carriers under the right of first refusal, which will be eligible for Phase I despite already offering 25/3 Mbps service in certain areas, the Remote Area Fund areas will likely prove much more challenging. Perhaps we wouldn't have found ourselves in this situation had the RAF been done at a much earlier point, which I have long-advocated.

Given these concerns, I asked the Chairman to provide an added financial incentive to serve the most challenging areas. I thank him and his team for working with my office to come up with a proposal that will help ensure the RAF areas are not left behind. These are the areas we need to prioritize and shouldn't be punted to a future action.

Adding such an incentive was especially important to me to counterbalance the item's problematic proposals with respect to Tribal areas. My views on this matter are well-known by now. Under the Commission's universal service mandate, all consumers—Tribal or otherwise—should have the option to purchase high-speed Internet access. To me, that means *everyone* deserves an equal chance when it comes to broadband access, and our policy shouldn't favor certain classes of Americans on the basis of group identity. Enacting such preferences, without a basis in need, is an inefficient use of scarce universal service dollars. That's especially true given the diverse conditions present on Tribal lands, and the fact that Tribal communities certainly aren't the only areas facing problems in obtaining service. I fully acknowledge that some Tribal lands are incredibly troubled when it comes to the availability of modern technology and represent some of the poorest areas in our nation. Others, however, are in fact

quite well off and feature high levels of broadband deployment.<sup>1</sup> Just like other areas of America, there are wealthy Tribal areas and poor ones, and it doesn't seem fair to give special treatment to all Tribes when a neighboring non-Tribal community may have equally poor or even worse broadband availability.

Thus, while I have significant concerns over our proposals to implement a Tribal Broadband Factor—which I previously criticized as it applied in the 2018 Rate-of-Return Reform item—and the arguably even more problematic Tribal bidding credit, I am willing to accept those components as long as the RAF areas are eligible for similar incentives. Further, I recognize that this item is still at the NPRM stage and look forward to the record shedding further light on maximizing the auction's efficiency. The bulk of the real work and requisite details on this matter will come in future items.

I vote to approve.

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<sup>1</sup> See, e.g., Letter from Donald L. Herman, Jr. and Clare C. Liedquist, Counsel to the Chickasaw Nation, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 18-120 (filed Mar. 26, 2019).