

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund: A National Broadband)	WC Docket No. 10-90
Plan for our Future High-Cost Universal Service)	
Support)	
)	

ORDER

Adopted: January 17, 2025

Released: January 17, 2025

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (WCB or Bureau) responds to a request from NTCA—The Rural Broadband Association (NTCA) concerning flexibility for the Connect America Fund Broadband Loop Support (CAF BLS) deployment deadline and cure period and provides guidance to recipients of CAF BLS that certified deployment of at least 25/3 Mbps broadband service to “all locations within [their] study area” to satisfy their five-year deployment deadline.¹ For purposes of validating these certifications, given the timing and circumstances surrounding CAF BLS, the Bureau implements the “all locations” language such that the standard is met when the Bureau can validate 95% of the locations as served using the relevant dataset—the National Broadband Map (NBM) and associated Broadband Serviceable Location Fabric (Fabric) dataset.² We find this guidance strikes the appropriate balance between ensuring carrier deployment using a transparent, accurate dataset for validation and providing reasonable flexibility with the validation process to CAF BLS carriers for which the deployment obligations and related deployment planning were determined several years before the NBM and Fabric were made available.

2. Separately, pursuant to the Bureau’s authority to set future CAF BLS deployment obligations, on our own motion, we waive section 54.308(a)(2)(iv) of the Commission’s rules to defer the commencement of the next five-year deployment term for an additional year, to January 1, 2026, or until the completion of the pending rulemaking proceeding, whichever is later.³ In July 2023, the Commission adopted a *Notice of Proposed Rulemaking* seeking comment on future deployment obligations for legacy

¹ See 47 CFR § 54.308(a)(2); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893, 11927, para. 101-12 (2018) (*December 2018 Rate-of-Return Reform Order*). On December 10, 2024, NTCA filed a letter requesting reasonable flexibility with the five-year deployment deadline and a 6-month extension of the 12-month cure period. Letter from Michael Romano, Executive Vice President, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 et al., at 3 (filed Dec. 10, 2024) (NTCA Letter).

² See 47 U.S.C. § 642; FCC, <https://www.fcc.gov/BroadbandData>.

³ 47 CFR §§ 1.3, 54.308(a)(2)(iv).

rate-of-return carriers receiving high-cost support.⁴ This waiver is appropriate because it will give the Commission necessary time to consider future CAF BLS recipient deployment obligations in the ongoing *Notice of Proposed Rulemaking* and to account for the effect of awards for broadband deployment pursuant to the Broadband Equity, Access, and Deployment Program (BEAD) and other federal programs.⁵ Notwithstanding this action, CAF BLS recipients remain subject to the Commission's reporting and certification requirements and to the Commission's broadband network performance testing and certification requirements.⁶

II. BACKGROUND

3. Rate-of-return carriers not electing to receive model-based support, such as Alternative Connect America Cost Model (A-CAM) support or Alaska Plan support, and that are not affiliates of price cap carriers, receive cost-based support pursuant to two "legacy" support mechanisms, CAF BLS and high-cost loop support (HCLS).⁷ CAF BLS subsidizes carriers with high local loop costs in the interstate jurisdiction for both voice and consumer broadband-only loops.⁸ HCLS provides support for voice lines, including voice lines bundled with broadband service, in study areas with an average common line cost per loop in excess of a specified threshold.⁹

4. In the *2016 Rate-of-Return Reform Order*, the Commission first adopted defined deployment obligations as a condition for carriers receiving CAF BLS.¹⁰ The Commission took this step "to promote accountability from companies receiving support to ensure that public investments are used wisely to deliver intended results."¹¹ Carriers were required over a five-year term to deploy 10/1 Mbps or faster service to a defined number of locations in their study areas,¹² as determined by the methodology set forth in *2016 Rate-of-Return Reform Order*, and report their "newly served" locations in USAC's

⁴ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, 38 FCC Rcd 7040, 7097-98, paras. 138-42 (2023) (*Report and Order* or *Notice of Proposed Rulemaking*).

⁵ See Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429, Div. F, Tit. I § 60102(b)(1) (2021) (Infrastructure Act).

⁶ See, e.g., 47 CFR § 54.316 (setting forth reporting and certification requirements for CAF BLS recipients); see also *December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11927, para. 112 ("Because all legacy carriers will have defined deployment obligations, all will be required to report their locations deployed in the HUBB portal."); *Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509, para. 1 (WCB 2018) (*Performance Measurement Order*) (providing uniform framework for measuring speed and latency performance); *Connect America Fund*, WC Docket No. 10-90, Order on Reconsideration, 34 FCC Rcd 10109, 10110, para. 3 (2019) (*Performance Measurement Order on Recon.*) (revising performance measures).

⁷ See 47 CFR §§ 54.901-903 (CAF BLS), 54.1301-1310 (HCLS). Carriers also receive Connect America Fund Intercarrier Compensation Replacement. See 47 CFR § 54.304.

⁸ See 47 CFR § 54.901.

⁹ See *id.* §§ 54.1301-54.1310.

¹⁰ See *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, 3152-53, paras. 172-77 (2016) (*2016 Rate-of-Return Reform Order*).

¹¹ *Id.* at 3145, para. 156.

¹² 47 CFR § 54.308(a)(2) (2017); *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3152, para. 173.

High Cost Universal Service Broadband (HUBB) database,¹³ which became operational in 2017.¹⁴ Carriers already having deployed the requisite level of broadband service to 80% or more of their study area, based on FCC Form 477 data at the time, were exempt from these specific deployment obligations.¹⁵

5. Subsequently, in the *December 2018 Rate-of-Return Reform Order*, the Commission revised these obligations to extend the deployment requirements to all CAF BLS carriers, including those previously exempt.¹⁶ The Commission also increased the speed obligation to at least 25/3 Mbps or faster and again required each carrier to deploy to a defined number of locations in its study area as determined using the same methodology as set forth in the *2016 Rate-of-Return Reform Order*.¹⁷ Specifically, USAC and the Bureau, as directed by the Commission, calculated the number of locations based on the amount of forecasted CAF BLS support targeted to new deployment¹⁸ divided by an estimated cost per-location.¹⁹ Carriers were only allowed to count, towards their five-year term obligation, those locations to which they had deployed at least 25/3 Mbps broadband service since May 25, 2016 (the effective date of the *2016 Rate-of-Return Order*).²⁰ Alternatively, the Commission allowed a carrier to satisfy their defined deployment obligation by certifying it had deployed 25/3 Mbps or faster broadband service “to all locations within the study area.”²¹ The Commission also reset the five-year deployment term to begin on January 1, 2019, and end on December 31, 2023.²²

6. At the time of the *2018 Rate-of-Return Reform Order*, the Commission relied on the FCC Form 477 to measure broadband deployment. This form required facilities-based providers to report

¹³ *Id.* at 3149, 3163, paras. 165, 210 (“[W]e adopt a rule requiring all rate-of-return ETCs, starting in 2017, and on a recurring basis thereafter, to submit to USAC the geocoded locations to which they have newly deployed broadband”); *see also Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding their Broadband Location Reporting Obligations*, WC Docket No. 10-90, Public Notice, 31 FCC Rcd 12900, 12905 (WCB 2016) (“Rate-of-return carriers receiving CAF-BLS that are subject to the five-year deployment obligation will receive credit towards their deployment obligations only for locations capable of receiving service consistent with their public interest obligations where service was newly available on or after May 25, 2016, the effective date of the [2016 Rate-of-Return Reform Order]”). While these carriers were required to report newly served locations, they were also allowed to report pre-existing locations, but no earlier than May 25, 2016, in the HUBB.

¹⁴ *See WCB Provides Guidance to Carriers Receiving Connect America Fund Support Regarding their Broadband Reporting Obligations*, WC Docket No. 10-90, Public Notice, 31 FCC Rcd 12900, 12902 (WCB 2016).

¹⁵ *See 2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3152, para. 173.

¹⁶ *See December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11924-27, paras. 101-12.

¹⁷ *Id.* at 11926-27, 111-12.

¹⁸ *See 2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3150, para. 168.

¹⁹ The Commission provided the following example to illustrate the process: “Carrier X must target \$100,000 of its CAF-BLS support to locations in those census blocks lacking [the requisite level of] broadband service within its study area. Carrier X’s study area has a density of 8 locations per square mile. . . . [T]he average cost per loop is \$1,500. To determine the number of new locations that Carrier X must deploy . . . broadband service to as part of its new five-year plan, USAC will divide \$100,000 by \$1,500; the result is 67 locations.” *See 2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3151, para. 170 n.384; *December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11927, para. 112.

²⁰ *Id.* at 11927, para. 110 (“[W]e will count towards the new five-year obligation any locations CAF BLS carriers deployed to with at least 25/3 Mbps since May 25, 2016 . . .”). Carriers were required to report their qualifying deployed locations in the HUBB. *Id.* at 11927, para. 112.

²¹ *Id.*; *WCB Provides Further Guidance to Recipients of Connect America Fund-Broadband Loop Support on Reporting and Deployment Obligations*, WC Docket No. 10-90, Public Notice, 33 FCC Rcd 2119, 2120 (WCB 2018) (*Further Guidance PN*).

²² *December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11926, para. 110.

where they provided broadband service at different speeds on a census block level.²³ In 2020, Congress passed the Broadband DATA Act, which directed the Commission to collect more granular broadband availability data and to create a publicly accessible, nationwide map of where fixed and mobile broadband is available throughout the United States.²⁴ To implement the Broadband DATA Act, the Commission adopted orders: (1) establishing the Broadband Data Collection (BDC) and requiring broadband providers to file broadband availability data based on standardized and precise parameters; (2) developing a Fabric dataset of all serviceable locations where fixed broadband services can be installed; and (3) establishing a process for parties to challenge the accuracy of submitted availability data and locations identified as serviceable.²⁵ In 2022, the BDC replaced the collection of broadband deployment information on the FCC Form 477.²⁶ The Commission has released five versions of the Fabric,²⁷ five versions of the NBM,²⁸ and processed more than 3.7 million fixed broadband availability challenges, with each version of the dataset a significant improvement with increased accuracy.²⁹

7. The five-year deployment obligation term for CAF BLS carriers ended on December 31, 2023.³⁰ The Bureau on January 25, 2024 announced its intent to use the Fabric to verify CAF BLS carriers' claims of deployment to all the locations in their study areas.³¹ Carriers were required to report to USAC by March 1, 2024, eligible locations to which they deployed in the previous year³² and certify whether they had fulfilled their final milestone deployment obligation.³³ If the carrier did not timely meet the deployment obligation, section 54.320(d)(2) provided a cure period for such carriers.³⁴ When a participating carrier "has not met a final milestone," it will have an additional 12 months from the date of the final milestone deadline to "come into full compliance."³⁵ The cure period ended on December 31, 2024. Carriers failing to comply by the end of this 12-month cure period are subject to support recovery action by USAC.³⁶

²³ *Establishing the Digital Opportunity Data Collection et al.*, WC Docket No. 19-195, Order, 37 FCC Rcd 14957, para. 2 (2022) (*FCC Form 477 Sunset Order*).

²⁴ See 47 U.S.C. § 642(a)(1)(A), (C); *FCC Form 477 Sunset Order*, 37 FCC Rcd at 14959, para. 5.

²⁵ 47 U.S.C. § 642(a)(1)(B)(iii), (b)(5); 47 CFR § 1.7006(d)(9) ("[T]he Commission shall seek to resolve such challenges within 60 days of receiving the challenge filing in the online portal.").

²⁶ *FCC Form 477 Sunset Order*, 37 FCC Rcd at 14960, para. 10.

²⁷ Compare FCC, <https://help.bdc.fcc.gov/hc/en-us/articles/11749189297947-Which-Version-of-the-Fabric-Should-I-Use#:~:text=A%20new%20version%20of%20the,December%2031%20of%20each%20year> (last visited Jan. 6, 2025), with *Broadband Data Task Force Announces the Opening of the Sixth Broadband Data Collection Window*, WC Docket Nos. 11-10, 19-195, Public Notice, DA 24-1257 (BDTF Dec. 16, 2024).

²⁸ See *Broadband Data Task Force Releases Fifth Version of the National Broadband Map*, WC Docket Nos. 19-195, 11-10, Public Notice, DA 24-1145 (BDTF Nov. 15, 2024).

²⁹ See *Broadband Data Task Force Seeks Comment on the BDC Challenge Process*, WC Docket Nos. 11-10 and 19-195, Public Notice, 39 FCC Rcd 334, 338 (BDTF 2024).

³⁰ See *December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11926, para. 110.

³¹ See *WCB Seeks Comment on Leveraging the Broadband Serviceable Location Fabric for High-Cost Support Mechanism Deployment Obligations*, WC Docket No. 10-90 et al., Public Notice, 39 FCC Rcd 399, 402, para. 8 n.21 (WCB 2024) (*Leveraging the Fabric PN*).

³² 47 CFR § 54.316(c)(1).

³³ *Id.* § 54.316(b)(3)(i).

³⁴ *Id.* § 54.320(d)(2).

³⁵ *Id.*

³⁶ *Id.*; see also *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3153, para. 174 ("However, should any carrier subject to a defined five-year deployment obligation fail to complete the deployment within the stipulated five-year

(continued...)

8. On December 10, 2024, NTCA requested the Commission provide carriers certifying as deploying to all locations in their study areas: “(1) an additional six months to cure or otherwise resolve alleged noncompliance with deployment obligations applicable to this program; and (2) reasonable flexibility with respect to the final showing of compliance with this deployment obligation.”³⁷ Specifically, “NTCA recommends that any CAF BLS recipient certifying through the HUBB portal that it is “all done” with deployment in a study area be deemed to have achieved such deployment if it has reported on the NBM the requisite level of service to at least 95% of the [broadband serviceable locations] in that study area.”³⁸

9. In a separate proceeding, the Commission released a *Notice of Proposed Rulemaking* seeking comment on, among other things, whether to modify the deployment obligations for CAF BLS carriers.³⁹ The Commission also released an order deferring the commencement of the next five-year deployment obligation term for CAF BLS carriers until January 1, 2025, while it considers reforms in the ongoing *Notice of Proposed Rulemaking* proceeding.⁴⁰

III. DISCUSSION

A. Validating Certifications of Deployment to All Study Area Locations.

10. We first interpret the “all locations within the study area” language in the Commission’s *December 2018 Rate-of-Return Reform Order* to mean those certifications for which 95% of the locations can be validated as served by the carrier using the relevant dataset.⁴¹ The Commission first adopted defined buildout obligations for rate-of-return carriers in 2016, noting the lack of “specific numerical targets” in five-year plans had “hampered [its] ability to judge whether carriers are in fact taking reasonable steps to extend broadband service.”⁴² As the Commission stated, “reform, by itself, does not guarantee that a carrier will make the investments needed to connect unserved consumers.”⁴³ Accordingly, to ensure universal support is utilized as effectively as possible to further the Commission’s goal of achieving universal service, the Commission revised the five-year plans of carriers to include numerical targets to “operate as a meaningful tool for Commission oversight” and provide “quantifiable objective goals that can be easily measured and monitored.”⁴⁴

11. The Commission provided “a specific methodology to determine each carrier’s deployment obligation over a defined five-year period, which [would] be used to monitor carrier performance.”⁴⁵ This methodology utilizes a percentage of a carrier’s forecasted CAF BLS targeted for

period, the carrier is potentially subject to reductions in support pursuant to section 54.320(c) of the Commission’s rules, to be determined on a case-by-case basis.”).

³⁷ NTCA Letter at 1.

³⁸ *Id.* at 4.

³⁹ See *Notice of Proposed Rulemaking*, 38 FCC Rcd at 7097-98, paras. 138-42. The comment period ended on October 2, 2023. See *Connect America Fund et al.*, 88 Fed. Reg. 56579 (Aug. 18, 2023).

⁴⁰ *Connect America Fund: A National Broadband Plan for our Future High-Cost Universal Service Support*, WC Docket No. 10-90, Second Report and Order, 38 FCC Rcd 12876, para. 1 (2023) (*Second Report and Order*).

⁴¹ As such, this 5% variation allowance only addresses those CAF BLS carriers certifying that they did not deploy to their defined minimum number of locations, but by the end of 2023, they offered voice and at least 25/3 Mbps broadband service to all of the locations in their study area and does not apply to those CAF BLS carriers certifying they offered voice and at least 25/3 Mbps broadband service to their defined number of locations during the five-year deployment obligation period.

⁴² See *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3148, para. 163.

⁴³ *Id.* at 3148, para. 165.

⁴⁴ *Id.*

⁴⁵ *Id.*

new deployments divided by a cost per location metric.⁴⁶ The quotient of this calculation results in the exact number of new locations a carrier is required to deploy.⁴⁷ Failure to deploy could potentially subject the carrier to “reductions in support pursuant to section 54.320(c) of the Commission’s rules, to be determined on a case-by-case basis.”⁴⁸

12. The percentage of a carrier’s CAF BLS support targeted for new deployment depended on the carrier’s percentage of qualifying broadband service coverage in its study area based on 2015 FCC Form 477 data.⁴⁹ The Commission directed the Bureau in conjunction with USAC to determine the cost-per-location figure using FCC Form 477 deployment data and publicly available U.S. Census data.⁵⁰ The Commission further tasked USAC with performing the mathematical calculations and providing the Bureau with a “schedule of broadband obligations for each carrier.”⁵¹ After the initial five-year period, the Bureau and USAC were directed to use the same methodology to calculate the defined number of locations to be served for those carriers still under the then applicable service coverage benchmark; “with USAC updating the average cost per loop amounts, based on the then-current NECA cost data, and the Bureau updating the density groupings and percentage of deployment figures, as appropriate.”⁵² The Commission also delegated authority to the Bureau “to take all necessary administrative steps to implement the reforms adopted in [the *2016 Rate-of-Return Reform Order*].”⁵³

13. When the Commission revised the deployment obligations to, *inter alia*, increase the broadband service speed to 25/3 Mbps or faster, the Bureau was again directed to use the methodology in the *2016 Rate-of-Return Reform Order* to calculate the number of locations to which carriers were to deploy broadband service.⁵⁴ However, the calculated number of locations did not, and could not, take into account the actual number of unserved locations remaining in a carrier’s study area. This is because at the time of the *2018 Rate-of-Return Reform Order*, the Commission relied on the FCC Form 477 to identify broadband deployment. The FCC Form 477 did not capture geo-location information for each location deployed by the carrier or the total number of serviceable locations in each study area.⁵⁵ Accordingly, the number of locations calculated by the Bureau for each carrier, using the *2016 Rate-of-Return Reform Order* methodology, could conceivably exceed the number of actual unserved locations remaining in a study area. Recognizing this, the Commission alternatively allowed a carrier to meet their deployment obligation by certifying it had deployed 25/3 Mbps or faster broadband service “to all locations within the study area.”⁵⁶

⁴⁶ *Id.* at 3149, para. 166.

⁴⁷ *Id.* at 3141, para. 170.

⁴⁸ *Id.* at 3153, para. 174; *see also* 47 CFR § 54.320(d)(2) (providing, separately, a formula for calculating amount of support recovery).

⁴⁹ *Id.* at 3150, para. 168. The FCC Form 477 only required fixed providers to file lists of census blocks in which they can or do offer service to at least one location. This means that even if there were still unserved locations in the census block, the entire census block would be treated as served by the reporting carrier if it served at least one location in the census block. *See* FCC, <https://www.fcc.gov/general/broadband-deployment-data-fcc-form-477> (last visited Dec. 30, 2024).

⁵⁰ *See 2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3150, para. 169.

⁵¹ *Id.* at 3149, para. 166.

⁵² *Id.* at 3153, para. 175.

⁵³ *Id.* at 3156, para. 185 n.413.

⁵⁴ *See December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11926-27, paras. 111-12.

⁵⁵ *See FCC Form 477 Sunset Order*, 37 FCC Rcd at 14960, para. 10.

⁵⁶ *See December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11927, para. 112; *see also Further Guidance PN*, 33 FCC Rcd at 2120 (“Any CAF-BLS carrier will be able to voluntarily certify to USAC that it is fully

(continued....)

14. The Commission did not specify in either the 2016 or 2018 rulemaking order as to how the Bureau and USAC were to validate certifications of compliance. However, the Commission clearly envisioned a validation process, which is essential with funding programs administered by the Commission to protect against waste, fraud, and abuse.⁵⁷ For example, in the *2016 Rate-of-Return Reform Order*, when moving up the reporting deadline for price cap carriers, the Commission said “[t]his will enable USAC to perform validations of compliance with the interim and final deployment milestones more quickly than otherwise would be the case, and impose remedial measures as necessary.”⁵⁸

15. The validation process for those carriers certifying having deployed to the requisite number of locations is relatively straightforward in that USAC need only compare the number of “newly deployed” locations reported in the HUBB over the five-year period by the carrier against the carrier’s defined location number. The validation process for those carrier’s alternatively certifying as deploying the requisite level of broadband service “to all locations in the study area” is, however, less straightforward. The only broadband deployment data available at the time of the 2016 and 2018 orders’ adoption were the FCC Form 477 dataset, which the Commission directed the Bureau to utilize when calculating the defined deployment obligation for each carrier. The Commission also intended the Bureau to use this dataset to validate whether a carrier served all locations within in its study area. However, the Commission understood at the time the limitations of the FCC Form 477 dataset, which would not indicate whether all locations were served in a study area but would show whether the provider provides service anywhere in the census block in the study area at a given speed.

16. The Commission replaced the FCC Form 477 with the BDC in 2022 for broadband deployment purposes, resulting in a more granular, accurate dataset of locations where broadband is available as reflected in the NBM and a more complete set of total broadband serviceable locations in any given area, i.e., the Fabric. As noted above, with each iteration, the accuracy of the NBM and associated Fabric continues to improve. Since 2022, the Commission has regularly updated both the Fabric data and the NBM based upon the information providers submit bi-annually, as well as information gathered through the challenge process and Commission audits, validations and verifications.⁵⁹ The accuracy of the NBM and Fabric far exceeds the accuracy of the broadband data formerly collected on the FCC Form 477, and as this is the most up-to-date dataset on broadband availability, it is in the public interest to use this dataset in conducting the validation process.⁶⁰

17. On January 25, 2024, after the expiration of the five-year deployment obligation deadline, the Bureau announced its intent to use the NBM to validate the deployment of those CAF BLS

deployed (and thus has fulfilled its buildout obligation) because it has deployed qualifying broadband to all locations in its study area USAC shall adjust the carrier’s deployment obligation accordingly and note that a carrier’s deployment obligation has been met.”) (internal citation omitted).

⁵⁷ See, e.g., *Connect America Fund et al.*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17865, para. 623 (2011) (stating that “audits are an essential tool for the Commission and USAC to ensure program integrity and to detect and deter waste, fraud, and abuse”); see also 47 CFR § 54.707(a) (“The Administrator shall establish procedures to verify . . . support amounts provided by the universal service support programs . . .”).

⁵⁸ See *2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3167, para. 218.

⁵⁹ See *BDC Challenge Process PN*, 39 FCC Rcd at 338; FCC, Broadband Data Collection Resources, <https://www.fcc.gov/BroadbandData/resources> (last visited Oct. 16, 2024).

⁶⁰ See *Leveraging the Fabric PN*, 39 FCC Rcd at 403, para.9 (“[W]e 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.”); *BDC Challenge Process PN*, 39 FCC Rcd at 334 (“The BDC is the most granular, detailed collection of broadband availability data the FCC has ever gathered or released, depicting location-level information on mass-market fixed broadband internet access services available across the United States . . .”).

carriers having certified they provided the requisite service to all of the locations in their study areas.⁶¹ By March 1, 2024, 103 CAF BLS carriers certified that, by the end of 2023, they provided at least 25/3 Mbps to all of the locations in their service area. As directed by the Bureau, USAC attempted to validate these certifications using the carrier-reported broadband availability data published in the NBM. Of the 103 CAF BLS carriers, USAC's analysis showed 72 of these carriers as not serving all the of locations in their study areas according to the NBM. USAC notified these carriers in November 2024 that they were non-compliant based on NBM data as of December 31, 2023. Under our rules, absent any relief, these carriers would have 12 months from December 31, 2023 to come into full compliance or be subject to a support recovery action.⁶²

18. We implement the broadband service “to all locations in the study area” language in the *December 2018 Rate-of-Return Reform Order*, for purposes of validation, to mean that at least 95% of the locations, as reflected in the NBM and the underlying Fabric, are validated as being served by the CAF BLS carrier in its study area.⁶³ This allowance of a 5% variation provides equitable considerations to carriers who were not aware the NBM would be used to validate their certifications until after the expiration of the final milestone deadline.⁶⁴ It also takes into consideration changes to locations on the Fabric since it was first made available to carriers in June 2022.

19. With the use of the NBM, affected carriers needed to review the latest version of the map and had only a limited amount of time to file challenges that could be incorporated into the version used to validate their certifications before submitting their certifications by March 1, 2024.⁶⁵ CAF-BLS recipients that certified to serving all locations but that have a discrepancy between Fabric locations and their own records would have needed to develop and file challenges to align those two datasets or to remove locations in the Fabric that are not serviceable.⁶⁶ Accordingly, using a validation threshold of at least 95% provides the appropriate balance between ensuring carriers have deployed the sufficient level of broadband service in their study areas as intended by the Commission while not unfairly holding CAF BLS carriers to a 100% match with the NBM.⁶⁷ Further, allowing a 5% variation promotes the efficient

⁶¹ See *Leveraging the Fabric PN*, 39 FCC Rcd at 402, para. 7 n.21.

⁶² 47 CFR § 54.320(d)(2).

⁶³ See, e.g., *Perez v. Mortgage Bankers Ass'n*, 135 S. Ct. 1199, 1204 (2015) (stating “the critical feature of interpretive rules is that they are ‘issued by an agency to advise the public of the agency’s construction of the statutes and rules which it administers’”); *Nat’l Min. Ass’n v. McCarthy*, 758 F.3d 243, 252 (D.C. Cir. 2014) (stating that “an agency action that merely interprets a prior statute or regulation, and does not itself purport to impose new obligations or prohibitions or requirements on regulated parties, is an interpretive rule”).

⁶⁴ CAF BLS carriers previously notified that their certifications could not be validated using data published on the NBM may not have been focused on the practical consequences of ensuring the accuracy of the Fabric in their service territory until late in the 12-month cure period, notwithstanding the Bureau’s prior statement of intent to use the Fabric to validate compliance earlier in the year.

⁶⁵ While providers are required to report “data relating to the availability and quality of service of their broadband internet access service” and certify as to the accuracy of their submissions in the BDC, providers are not required to ensure the broadband serviceable locations identified in the Fabric for their service areas are indeed serviceable through the Fabric challenge process. 47 CFR § 1.7006(c), (d) (“State, local, and Tribal governmental entities, consumers, and other entities or individuals *may* submit data in an online portal to challenge the accuracy of . . . the Fabric.”) (emphasis added).

⁶⁶ See NTCA Letter at 3 (stating “these CAF BLS carriers have not had sufficient notice and data to validate which locations are allegedly unserved and that would therefore be factored into any penalty – indeed, these providers in many cases may have no deployment shortfalls at all once proper investigation can be thoroughly conducted.”).

⁶⁷ *Id.* at 4 (stating such carriers “should not be held strictly liable for the subsequent decision to reference the NBM in measuring such compliance” and requesting “reasonable flexibility” in meeting the final compliance milestone). We also do not wish to provide incentives for carriers to make unjustified challenges to Fabric locations with the goal of avoiding support recovery. In the alternative, to the extent necessary, and for the reasons stated herein, we

(continued....)

use of Commission resources by eliminating the need to address on a case-by-case basis requests for review of support recovery from CAF BLS recipients that served all but a small percentage of locations, some of which the carriers may have reasonably expected were not serviceable locations, and which we expect will be eligible for BEAD in the vast majority of instances.

20. Moreover, the decision to use a 95% or greater validation threshold for NBM data provides affected carriers with the reasonable flexibility as requested by NTCA. To the extent NTCA's request for an additional six-month cure period amounts to a request for waiver, we deny this request as the validation flexibility provided is sufficient to address the equitable concerns of carriers. Based on our records, using a 95% validation threshold would result in a validation of compliance for the large majority of the carriers previously notified by USAC as being non-compliant.⁶⁸

B. Deferring the Next Five-Year Deployment Obligation Term.

21. The Commission's rules give the Bureau the authority to set future deployment obligations for CAF BLS.⁶⁹ Consistent with that authority, we next find good cause to defer commencing the next five-year term until January 1, 2026 or the completion of the pending rulemaking proceeding, whichever is later, to allow the Commission to address the future budget and deployment obligations for CAF BLS carriers and give the Commission additional time to evaluate the impact of the BEAD Program and other federal and state broadband program commitments.⁷⁰ This action does not release legacy carriers from their deployment commitments by the end of 2023 under the Commission's rules.⁷¹

22. The initial five-year deployment obligation term for CAF BLS recipients ended on December 31, 2023.⁷² Although section 54.308(a)(2)(iv) of the Commission's rules provides a process for setting subsequent five-year period deployment obligation terms,⁷³ prior to the end of the initial term, the Commission deferred the commencement of the next five-year term until January 1, 2025.⁷⁴ The

separately find good cause to waive the support recovery provisions of section 54.320(d)(2) for any carrier where the NBM corroborates deployment to at least 95% of the serviceable locations in its study area. 47 CFR §§ 1.3, 54.320(d)(2); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁶⁸ The minority of carriers for which deployment can still not be validated even when using the 95% validation threshold can still seek a waiver of the Commission's rules to demonstrate circumstances unique to their service territory that prevented the carrier from satisfying its final milestone. *See* 47 CFR § 1.3; *see, e.g., 2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3153, para. 174 (stating "the carrier is potentially subject to reductions in support . . . to be determined on a case-by-case basis.").

⁶⁹ 47 CFR § 54.308(a)(2)(iv).

⁷⁰ BEAD-eligible entities—the 56 states, territories, and the District of Columbia—were required to submit for the approval of the National Telecommunications and Information Administration (NTIA) an Initial Proposal detailing how they plan to spend their BEAD allocation to deliver high-speed Internet access to all unserved and underserved locations within their borders. One year from the Initial Proposal approval, states must submit a Final Proposal that details, among other things, the outcome of the subgrantee selection process and how the state will ensure universal coverage. As of December 5, 2024, NTIA had approved all Initial Proposals submitted by eligible entities. NTIA, BEAD Initial Proposal Progress Dashboard, <https://www.internetforall.gov/bead-initial-proposal-progress-dashboard> (last visited Dec. 5, 2024).

⁷¹ *See* 47 CFR § 54.308(a)(2).

⁷² *See December 2018 Rate-of-Return Reform Order*, 33 FCC Rcd at 11926, para. 110.

⁷³ Specifically, section 54.308(a)(2)(iv) states: "Prior to publishing the deployment obligations for subsequent five-year periods, the Administrator shall update the unseparated average cost per loop amounts for carriers with 95 percent or greater deployment of the then-current standard, based on the then-current NECA cost data, and the Wireline Competition Bureau shall examine the density groupings and make any necessary adjustments based on then-current U.S. Census data." 47 CFR § 54.308(a)(2)(iv).

⁷⁴ *Second Report and Order*, 38 FCC Rcd at 12876, para. 1.

Commission took this action as it considers general high-cost program reforms for legacy carriers in the ongoing rulemaking proceeding.⁷⁵ Among the open issues are whether to continue to require deployment obligations for CAF BLS recipients, and if so, whether to increase the obligation to offer 100/20 Mbps broadband service, consistent with the deployment obligations recently adopted for Enhanced A-CAM and the BEAD Program.⁷⁶

23. As the Commission previously acknowledged, establishing the next deployment obligation term under the current rules, or applying other deployment obligations, would undermine the viability of carrier planning given that both the support levels and ultimate deployment obligations would be uncertain over the relevant time horizon.⁷⁷ CAF BLS recipients need flexibility in implementing the associated broadband deployment obligations, reflected, for example, in our decision to give those carriers flexibility in how they spread their deployment efforts out over the course of a deployment term,⁷⁸ and in our actions to ensure those carriers have a full five-year deployment term to fulfill those deployment obligations.⁷⁹ Moving forward, at this time, with near-term deployment obligations for CAF BLS support recipients could lead to the inefficient allocation of resources in the event that broadband deployment obligations would require them to deploy facilities that could not be used efficiently—or at all—to achieve any revised broadband deployment obligations that the Commission might adopt and could conflict with the Commission’s goal of minimizing overlap of governmental support from multiple broadband support programs. Accordingly, the Bureau finds, for the same reasons the Commission deferred the deployment obligation term by a year in December 2023, that the better course is to continue to maintain the *status quo* pending the outcome of the rulemaking proceeding.⁸⁰

24. We emphasize, notwithstanding this action, CAF BLS recipients, including those that were not authorized for Enhanced A-CAM, remain subject to the Commission’s reporting and certification requirements and the Commission’s broadband network performance testing and certification requirements.⁸¹ We note that CAF BLS carriers that have met their defined deployment obligations are no longer required to report deployment in the HUBB.⁸² However, we encourage carriers to continue voluntarily reporting deployment in the HUBB. Given the possibility there will be renewed HUBB reporting obligations in the next deployment term, companies may later benefit from having maintained familiarity with the HUBB reporting system and an up-to-date set of HUBB-reported deployment. Legacy carriers remain eligible to receive high-cost support during the deferral period to cover their

⁷⁵ *Id.*; *Notice of Proposed Rulemaking*, 38 FCC Rcd at 7097-98, paras. 138-42.

⁷⁶ *See id.* at 7057, para. 37. Under the BEAD Program, NTIA has allocated \$42.45 billion to states for grants for the deployment of broadband networks to unserved locations “to bridge the digital divide.” Infrastructure Act, Div. F, Tit. I § 60102(b)(1). BEAD Program recipients must offer download speeds of at least 100/20 Mbps and “latency that is sufficiently low to allow reasonably foreseeable, real-time, interactive applications.” *Id.* § 60102(h)(4)(A)(i).

⁷⁷ *See Second Report and Order*, 38 FCC Rcd at 12878-79, para. 8.

⁷⁸ *See, e.g., 2016 Rate-of-Return Reform Order*, 31 FCC Rcd at 3153, para. 174 (“[C]arriers subject to a defined five-year deployment obligation may choose to meet their obligation at any time during the five-year period.”).

⁷⁹ *Id.* at 11926-27, para. 110.

⁸⁰ *See Second Report and Order*, 38 FCC Rcd at 12878-79, para. 8.

⁸¹ *See* 47 CFR §§ 54.313(a)(6), 54.316, 54.320(d)(2) (setting forth reporting and certification requirements for CAF BLS recipients and providing enforcement procedures and penalties for failure to comply with public interest obligations); *Performance Measurement Order*, 33 FCC Rcd at 6509, para. 1; *Performance Measurement Order on Recon.*, 34 FCC Rcd at 10110, para. 3. Support recovery for non-compliance with performance measurements will be assessed for the period from January 1, 2024 through December 31, 2025.

⁸² *See* 47 CFR 54.316(a)(1), (applying to “recipients of high-cost support with defined broadband deployment obligations pursuant to § 54.308(a) . . .”).

ongoing eligible costs, subject to the Commission's monthly per-line cap support amount.⁸³ Those carriers having already satisfied their final milestone are also permitted, but not required, to expand their broadband service coverage to any remaining unserved locations in their study area during the deferral period and are expected to at least maintain or improve their coverage footprint as of December 31, 2023 as the Commission considers future deployment obligations.

IV. ORDERING CLAUSES

25. ACCORDINGLY, IT IS ORDERED, pursuant to the authority in sections 1-4 and 254 of the Communications Act of 1934, as amended 47 U.S.C. §§ 151-154, and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 CFR §§ 0.91, 0.291, and 1.3, that sections 47 CFR §§ 54.308(a)(2)(iv) and 54.320(d)(2) of the Commission's rules ARE WAIVED to the extent provided herein.

26. IT IS FURTHER ORDERED, pursuant to section 1.103 of the Commission's rules, 47 CFR § 1.103, this Order SHALL BE EFFECTIVE upon release.

COMMISSION

FEDERAL COMMUNICATIONS

Trent B. Harkrader
Chief
Wireline Competition Bureau

⁸³ 47 CFR §§ 54.302, 54.303, Subparts K and M. In the *Report and Order*, the Commission reset the budget for legacy carriers for "2024-2025 at a level equal to 2023-24 legacy support claims less any frozen support received by carriers transitioning from legacy support to Enhanced A-CAM support." *Report and Order*, 38 FCC Rcd at 7084-85, para. 106.