



PUBLIC NOTICE

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WIRELINE COMPETITION BUREAU PROVIDES ADDITIONAL GUIDANCE ON PERFORMANCE MEASURES REQUIREMENTS FOR CARRIERS TRANSITIONING TO ENHANCED A-CAM AND THOSE REMAINING ON CAF BLS SUPPORT

WC Docket No. 10-90

With this Public Notice, the Wireline Competition Bureau (Bureau) provides additional guidance regarding the performance measures requirements for Alternative Connect America Cost Model (A-CAM) I, A-CAM II, and Connect America Fund Broadband Loop Support (CAF BLS) carriers authorized to begin receiving Enhanced A-CAM support on January 1, 2024.¹ In addition, the Commission sunsets the mixed support (*Hargray*) condition applicable to some carriers taking Enhanced A-CAM support.

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

In the interim, carriers authorized for Enhanced A-CAM support that do not meet their existing A-CAM I, A-CAM II, or CAF BLS deployment milestones due by December 31, 2023 will be subject to support withholding or recovery and “any support withholding or recovery will be based on support at the time the carrier is notified of non-compliance.”³ In the *Authorization Public Notice*, the Bureau stated that “Enhanced A-CAM carriers shall continue to conduct performance testing in their existing support programs until the Bureau has confirmed that the carrier is in compliance with its obligations under that

¹ See *Wireline Competition Bureau Authorizes 368 Companies in 44 States to Receive Enhanced Alternative Connect America Cost Model Support to Expand Rural Broadband*, WC Docket No. 10-90, Public Notice, DA 23-1025 (WCB Oct. 30, 2023) (*Authorization Public Notice*).

² *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.*, WC Docket No. 10-90 et al., Order, DA 23-778, at 7, para. 17 (WCB Aug. 30, 2023) (*Implementation Order*) (internal citations omitted). The Bureau also “clarif[ied] that Enhanced A-CAM carriers’ test locations will include all locations to which they have deployed or will deploy 100/20 Mbps or faster broadband service within their Enhanced A-CAM service areas—not just the locations to which they must newly deploy 100/20 Mbps or faster broadband service, i.e., Enhanced A-CAM required locations.” See *id.*

³ *Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support et al.*, WC Docket No. 10-90 et al., Report and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 23-60, at 23-24, para. 49 (July 24, 2023) (*Enhanced A-CAM Order*); 47 CFR § 54.320(d)(1). See also *Enhanced A-CAM Order* at 40-41, paras. 92-95 (explaining how Enhanced A-CAM support may be reduced because of a carrier’s non-compliance with a prior program’s service milestone).

program because results for performance testing conducted in 2023 are not due until July 1, 2024.⁴ We provide more specific guidance below.

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

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

Mixed Support Condition. We also announce the sunset of the mixed support (i.e., *Hargray*) condition on the mixed support transactions of 22 CAF BLS/High Cost Loop Support (HCLS) companies that will be receiving Enhanced A-CAM support as of January 1, 2024, as detailed in the Appendix. In the *Hargray/ComSouth Order*, the Commission approved a mixed support transaction, i.e., a transaction involving the combination of one or more entities receiving fixed high-cost support and one or more

⁴ *Authorization Public Notice* at 2. Although the Commission recently adopted changes requiring all high-cost support recipients serving fixed locations to report and certify performance testing results on a quarterly basis, rather than annually, testing conducted through the end of 2023 must still be reported by July 1, 2024. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Notice of Proposed Rulemaking and Report and Order, FCC 23-87, at 62, para. 136 (2023) (adopting quarterly deadlines for reporting performance testing results).

⁵ 47 CFR § 54.313(a)(6).

⁶ See *Connect America Fund*, WC Docket No. 10-90, Order, 33 FCC Rcd 6509, 6530-33, paras. 56-67 (WCB 2018).

⁷ Once current A-CAM I or II carriers are in compliance with their existing obligations, as Enhanced A-CAM carriers they will no longer be subject to prior A-CAM I or A-CAM II deployment obligations and associated performance measures requirements after they begin receiving Enhanced A-CAM support. See *Enhanced A-CAM Order* at 23, para. 49 ("Enhanced A-CAM carriers' interim and final deployment milestones will supersede the existing deployment milestones required by the A-CAM I and A-CAM II programs."). No further performance measures testing is necessary for such carriers until the Enhanced A-CAM pre-testing period begins in 2026.

⁸ See *id.* at 23-24, para. 49; 47 CFR § 54.320(d)(1). See also *Enhanced A-CAM Order* at 40-41, paras. 92-95 (citing *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893, 11927, para. 112 (2018)).

entities receiving cost-based support, subject to a condition to prevent cost shifting and to protect the finite resources of the high-cost universal service fund.⁹ This condition (the *Hargray* condition) capped the high-cost cost-based universal service support received based on the operating expenses of the rate-of-return carriers receiving cost-based support for a term of seven years (and any other rate-of-return affiliates acquired during the time in which the condition is in effect (together, covered entities)) or until all covered entities were converted to fixed support.¹⁰ The Commission directed the Bureau to apply this condition to future mixed-support transactions.¹¹ The 22 companies listed in the Appendix were part of such transactions and were made subject to the *Hargray* condition as per Commission and Bureau releases, as indicated therein.

The conversion of the support received by each of these 22 companies from cost-based support to fixed Enhanced A-CAM (including fixed transitional support) will render the *Hargray* condition on the company's associated transaction obsolete. The *Hargray* condition and related obligations will continue to apply to all cost and revenue data that is applicable to the 2023 calendar year, and these companies must file their compliance certification and financial report for 2023 by January 1, 2024.¹²

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

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⁹ *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc. for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket 18-52, Memorandum Opinion and Order, 33 FCC Rcd 4780, 4788-90, paras. 26-31 (2018) (*Hargray/ComSouth Order*).

¹⁰ *Id.* More specifically, the Commission capped the combined operating expenses of the post-consummation company's rate-of-return affiliates at the averaged combined operating expenses of the three calendar years preceding the transaction's closing date for which the operating expense data are available. During the applicable time frame, the cap would be applied to cost recovery under both HCLS and CAF BLS and proportionate to each affiliate's accounts used to determine the affiliate's eligible operating expense for HCLS and CAF-BLS. *Id.* at 4788-90, paras. 27-31.

¹¹ *Id.* at 4789, para. 27 n.72.

¹² *Id.* at 4790, para. 31.

APPENDIX

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