

United States Senate

WASHINGTON, DC 20510

March 9, 2020

The Honorable Ajit V. Pai
Chairman
Federal Communications Commission
455 12th Street SW
Washington, DC 20544

Dear Chairman Pai:

We write today to express our serious concerns with the Federal Communication Commission's (FCC) decision to move forward with the recently adopted Rural Digital Opportunity Fund (RDOF) Order (WC Docket No.19-126) when so much uncertainty remains around key details of the program. The Order as adopted, will exclude areas that are awarded funding through the U.S. Department of Agriculture's (USDA) ReConnect program and state-run broadband deployment or subsidy programs from being eligible for the RDOF. This decision not only exacerbates the digital divide in communities across the country, but it also knowingly disincentivizes states from implementing their own broadband programs.

As you are aware, the RDOF was announced to allocate \$20.4 billion through a reverse-auction format in order to connect millions of rural homes and small businesses to high-speed broadband networks. Specifically, the RDOF was designed to target "unserved" areas that do not have access to 25/3 Mbps broadband. Having access to fast and reliable internet is critical for small businesses, non-profits, educational institutions and consumers to thrive in today's economy.

We are concerned that your agency is penalizing states that have taken the initiative to create broadband programs to address the unserved communities across their own states. Limiting access to these vital federal funds could cause unintended harm to the constituents of our states who were counting on this funding opportunity as a chance to improve service for residents and overall quality of life in their communities. Our communities should not be put in the position to have to choose between federal or state funding opportunities.

We are also troubled by the discouraging message your agency is sending to states that are either in the process of, or are considering creating their own broadband programs. Given the FCC's critical role in connecting rural communities to high-speed internet through broadband expansion and deployment, your agency should be incentivizing states to take action and create their own programs, not deterring them by restricting the eligibility of their communities for federal programs such as the RDOF.

In order to provide states and Congress with the clarity needed to most effectively utilize this vital broadband funding, we ask that you provide answers to the questions below to help offer further transparency over the implementation process. Please provide answers to the following questions by Monday, March 23, 2020:

1. Which states have broadband subsidy programs that could disqualify parts of the state from eligibility for RDOF support? What is the date range of the broadband subsidy programs encompassed by the RDOF disqualification standard? For example, are broadband subsidy programs from 12 years ago included? What about broadband subsidy programs that have not yet awarded funding - what is the date by which such pending broadband subsidy programs will have the effect of making an area ineligible for RDOF?
2. If the agency does not currently have adequate data to answer question 1, how does it plan to gather this information to assess these eligibility questions? Will the agency release all data, information and documents it has gathered with respect to assessing state broadband subsidy program exclusions from RDOF to the public? If so, when?
3. The RDOF Order describes how the Wireline Competition Bureau (WCB) will create a "preliminary list of eligible areas" that are eligible for RDOF funding, and then conduct a limited challenge process. Please describe the limited challenge process in detail. Please also describe the process and evaluation criteria that WCB will follow to create the "final list" of eligible areas from the "preliminary list."
4. What kind of educational outreach is the agency doing with states to make sure they have all the information they need to ensure they make it on the "preliminary list"?
5. Will carriers that receive state universal service program funds directed toward broadband at speeds of 25/3 Mbps or greater be rendered ineligible in the same state due to this change in RDOF?
6. If part of a census block is covered by a state broadband subsidy program per the Order's definition, does that mean the entire census block is ineligible? If not, how will the FCC assess what areas of the census block are rendered ineligible?
7. Should states with recently announced Notice of Funding Opportunities (NOFO) for their broadband programs consider withdrawing or modifying these NOFOs until after RDOF funding and eligibility decisions are made by the FCC? What is the FCC doing to provide states with certainty that their investment decisions are not excluding them from future federal opportunities?
8. The USDA ReConnect Round 2 evaluation period and the FCC RDOF short-form deadline are likely to overlap. ReConnect grants may substantially change the available areas both for ReConnect applicants and RDOF auction participants. How do you plan to ensure that RDOF applicants are informed about changes in the eligible areas in a timely fashion and can avoid wasting resources on applications that become moot or are no longer financially viable?

We thank you for your serious consideration of this request and look forward to your prompt response to our questions.

Sincerely,



Charles E. Schumer
United States Senator



Kirsten Gillibrand
United States Senator



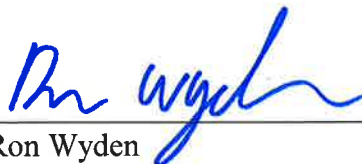
Tammy Duckworth
United States Senator



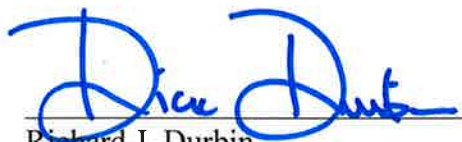
Cory Gardner
United States Senator



Tom Udall
United States Senator



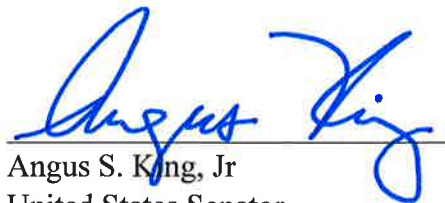
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Richard J. Durbin
United States Senator



Edward J. Markey
United States Senator



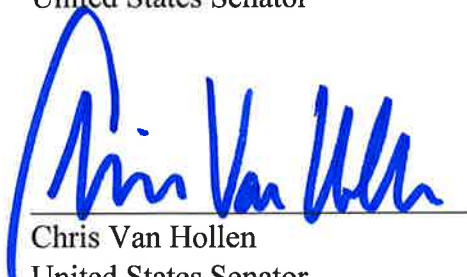
Angus S. King, Jr
United States Senator



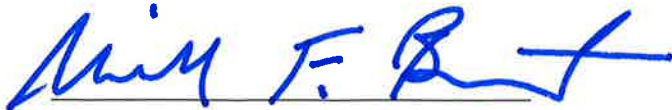
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Jeffrey A. Merkley
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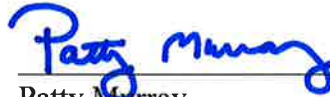
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Brian Schatz
United States Senator



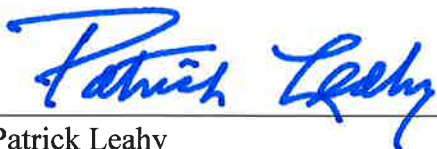
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United States Senator



Robert P. Casey, Jr.
United States Senator



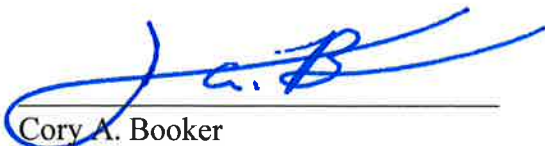
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Elizabeth Warren
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