

**Congress of the United States**  
**Washington, DC 20515**

February 14, 2020

The Honorable Ajit V. Pai, Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Chairman Pai:

We write with concerns about provisions of the Rural Digital Opportunity Fund Report and Order (RDOF Order) that the Federal Communications Commission (FCC) adopted January 30, 2020 and released last week Friday, February 7, 2020.<sup>1</sup> Specifically, we are concerned that the RDOF Order may inadvertently undermine the ability of states to help close the digital divide due to the rushed process undertaken by the FCC's adoption of the Order.

After the circulation of the draft RDOF Order on January 9, 2020, language was added that excludes census blocks awarded funding through "similar state subsidy programs." Commissioners Starks called the language "confusing and confused," potentially upending the collaborative partnership between the federal and state governments.<sup>2</sup> According to Commissioner Rosenworcel, this language penalizes the states that have "done the hard work" to expand broadband on their own.<sup>3</sup> We are likewise concerned that the FCC failed to engage with states and their respective broadband programs when it decided to add this language at the last minute. As a result, the RDOF Order contains no substantive analysis of how this provision would affect states' broadband deployment and investments, and leads to many questions about how the language will be applied to the various funding arrangements that have developed at the state level. It may also lead to disruptions and delays in deployment if states decide to wait to spend their money before they see where RDOF funds are ultimately awarded.

Moreover, this exclusion of areas funded by state broadband programs further exacerbates the concerns expressed by many stakeholders regarding the reliance this Order places on the FCC's inaccurate broadband data in making funding decisions. As you know, a census block may cover a wide geographical area.

Given those concerns, we have a number of questions about what this order actually means. For example, what kinds of state funding programs are considered "similar" to the RDOF subsidy? Will an area be considered "served" and therefore excluded from RDOF funding if a state subsidy program facilitates deployment to only a portion of a particular census block? How will the FCC become aware of state funding decisions?

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<sup>1</sup> Federal Communications Commission, *In the Matter of Rural Digital Opportunity Fund*, Report and Order, WC Docket No. 19-126, FCC 20-5 (Rel. Feb. 7, 2020).

<sup>2</sup> Statement of Commissioner Geoffrey Starks, *In the Matter of Rural Digital Opportunity Fund*, Report and Order, WC Docket No. 19-126, FCC 20-5 (Rel. Feb. 7, 2020).

<sup>3</sup> Statement of Commissioner Jessica Rosenworcel, *In the Matter of Rural Digital Opportunity Fund*, Report and Order, WC Docket No. 19-126, FCC 20-5 (Rel. Feb. 7, 2020).

How these questions are answered could have serious consequences for constituents in our states, given that the vast majority of the funds will be obligated in the first round using the FCC's inaccurate broadband maps. We therefore believe that there is a high probability that there will be unserved areas overlooked and left out of this opportunity.

While we believe that we share a common goal of expanding rural broadband to unserved communities, broadband services are too important—and this funding too valuable—not to ensure communities who would otherwise have access to RDOF funding are not being left behind.

To that end, we respectfully request that, consistent with applicable rules and regulations, you reconsider this Report and Order once states have had an opportunity to weigh in.

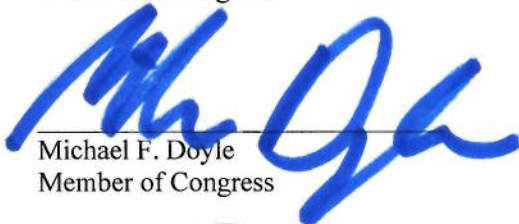
Sincerely,



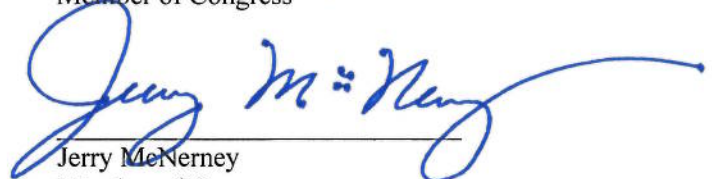
A. Donald McEachin  
Member of Congress



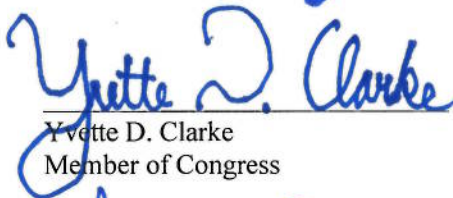
Frank Pallone, Jr.  
Member of Congress



Michael F. Doyle  
Member of Congress



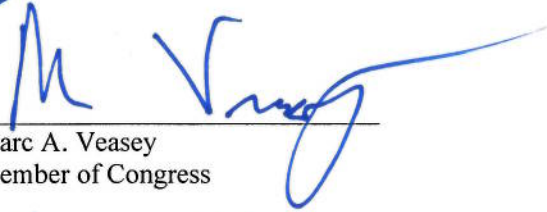
Jerry McNerney  
Member of Congress



Yvette D. Clarke  
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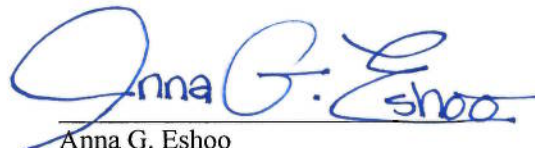
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