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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Connect America Fund Phase II Auction	)	AU Docket No. 17-182
	)	
The Uniendo a Puerto Rico Fund and the Connect USVI Fund	)	WC Docket No. 18-143
	)	
Rural Digital Opportunity Fund	)	WC Docket No. 19-126
	)	
Rural Digital Opportunity Fund Auction	)	AU Docket No. 20-34
	)	
Establishing a 5G Fund for Rural America	)	GN Docket No. 20-32
	)	
Letters of Credit for Recipients of High-Cost Competitive Bidding Support	)	WC Docket No. 24-144
	)	

REPLY COMMENTS OF AMERICA'S CREDIT UNIONS

America's Credit Unions submit these reply comments in the above-captioned proceedings to urge the Federal Communications Commission ("Commission") to enable credit unions to issue Letters of Credit ("LOC") to recipients of Universal Service Fund High Cost support.[1] Extending eligibility to credit unions would instantly expand the pool of safe and secure financial institutions and would be consistent with National Telecommunications and Information Administration's recent programmatic waiver allowing credit unions with a Weiss rating of B- or better and that are insured by the National Credit Union Administration

[1] America's Credit Unions was formed through the recent merger of the Credit Union National Association ("CUNA") and the National Association of Federally-Insured Credit Unions ("NAFCU"). America's Credit Unions represents the entire credit union industry and their 140 million members nationwide.

("NCUA") to provide LOCs to BEAD recipients.[2] The Commission should similarly revise its rules to enable credit unions to issue LOCs not just for RDOF or CAF II funding recipients but for any Commission program requiring a Letter of Credit.[3]

Credit Unions Provide a Safe Alternative to Banks Particularly in Rural Areas

Credit unions are uniquely situated to provide financial services in the rural areas where broadband deployment is sorely needed. According to the Federal Housing Finance Agency (FHFA) Duty to Serve program, approximately 40.2 percent of the 4,572 federally insured credit unions operate at least one branch in a census tract designated as rural and they are often the only financial services institution available.[4] Because credit unions are member-owned, they have close ties to their communities and understand the needs and capabilities of local businesses, including smaller broadband providers.

Credit unions, like banks, are rated by Weiss. As noted in their recently submitted white paper, Weiss applies the same strict rules to credit unions that they do to banks.[5] Allowing credit unions rated B- or better by Weiss would more than double the number of financial institutions available to provide LOCs to broadband providers without sacrificing safety.[6] Given that Weiss utilizes the same criteria for evaluating credit unions as it does when evaluating banks, there is no reason to preclude similarly rated credit unions from offering LOCs.

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[2] BEAD Letter of Credit Waiver, available at https://broadbandusa.ntia.gov/funding-programs/policies-waivers/BEAD-Letter-of-Credit-Waiver. *See also,* Comments of RDOF Winners' Coalition at 10 & Exhibit 1A, 1B.
[3] *See* Wisconsin Bankers Association Comments at 1.
[4] FHFA, Duty to Serve Eligibility Data, available at https://www.fhfa.gov/data/duty-to-serve/eligibility-data (last visited Aug. 14, 2024).
[5] Letter from Nicole Brown and Martin Weiss to Jessica Rosenworcel, Chairwoman, FCC, posted August 8, 2024, attaching *The Role of Independent Ratings in the Screening of Commercial Banks by the Federal Communications Commission* ("Weiss White Paper) at 4.
[6] According to the Weiss website, there are 1,693 banks rated B- or better and1,889 credit unions rated B- or better. *See* https://weissratings.com/en/credit-unions (last visited Aug. 14, 2024).

The Commission Should Consider Alternatives to Weiss Ratings

While revising Commission rules to enable credit unions rated B- or better to issue LOCs would increase the pool of financial institutions, America's Credit Unions shares the concerns expressed in the record regarding the exclusive use of Weiss ratings to qualify financial institutions. Just as a substantial number of banks have recently had their Weiss ratings reduced below B-, a substantial number of credit unions have also had their Weiss ratings reduced. America's Credit Unions concurs with commenters that this dramatic reduction in ratings appears unwarranted. There is substantial consensus in the record for either replacing or providing an alternative to Weiss ratings with other criteria that would equally, if not more effectively, demonstrate the safety of financial institutions issuing LOCs.[7]

For example, BPI notes that banks are tightly regulated at the federal and state level and that this oversight should be a sufficient safeguard to ensure the financial integrity of an institution issuing LOCs.[8] Credit unions are similarly subject to strict regulatory oversight. For example, the NCUA is, as NTIA noted, the "independent federal agency that insures deposits at federally insured credit unions, protects the members who own credit unions, and charters and regulates federal credit unions . . . [it] is to credit unions as the Federal Deposit Insurance Company is to banks."[9] Specifically, the NCUA requires federally insured credit unions to have a liquidity management policy and a contingency funding plan in place. These requirements are

[7] *See, e.g.,* Bank Policy Institute Comments at 2 (BPI comments); Wisconsin Bankers Association Comments at 1-2; Seventy-five State Banking Associations et al. Comments at 2; WISPA Comments at 5; USTelecom Comments at 2-3; RDOF Winners' Coalition Comments at 7-8.
[8] BPI Comments at 2 ("[W]e believe it would be sufficient for the Commission's purposes to ensure a bank issuing a letter of credit is regulated by one of the federal banking agencies: the Federal Reserve, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. Banks operating in the United States are subject to comprehensive regulation addressing safety and soundness, including their capital, liquidity, and risk management.").
[9] RDOF Winners' Coalition Comments at Exhibit 1B, p. 3 n. 6.

intended to ensure that credit unions can meet their short-term obligations and handle unexpected liquidity needs. Moreover, through regular examinations and supervisory activities, the NCUA monitors the liquidity risk management practices of credit unions to ensure they adhere to these regulations. Similarly, state-chartered credit unions are subject to robust regulatory oversight that ensures their safety and soundness. These institutions are rigorously monitored by state regulatory agencies, which establish comprehensive rules while still adhering to certain federal standards set by the NCUA for federally insured institutions. This dual oversight not only ensures compliance with stringent regulations but also provides a tailored approach that strengthens the overall stability of the credit union sector. America's Credit Unions thus concurs with BPI that regulatory oversight provides sufficient safeguards to ensure that the Commission's payments to providers will be protected.

Other alternatives to Weiss ratings described in the record are similarly worthy of consideration, including BPI's alternative suggestion that a financial institution's certification that it is "well capitalized" should be sufficient. [10] Although the criteria are somewhat different, the NCUA establishes capitalization tiers, including a well-capitalized tier, based on a net worth ratio for all credit unions and an additional calculation of risk-based net worth for credit unions with total assets greater than $500 million.[11] Other commenters have suggested utilizing a nationally recognized statistical rating organization ("NRSRO") that is registered with the U.S. Securities and Exchange Commission, such as Standard U Poor's, Moody's Investor Services and the Fitch Group.[12] Although America's Credit Unions does not object to this proposal as

[10] BPI Comments at 3-4.
[11] *See* New Capital Adequacy Standards for Credit Unions, [New Capital Adequacy Standards for Credit Unions | IDC Financial Publishing, Inc. (idcfp.com)]
[12] *See, e.g.,* USTelecom Comments at 3-4 (suggesting S&P, Moody's or Fitch as widely recognized rating agencies); Seventy-Five State Banking Associations Comments at 3 (suggesting utilizing NRSRO ratings equivalent to BBB- or better from Standard & Poor's).

one alternative to demonstrating financial soundness, the Commission should refrain from making it a requirement. Credit unions are not publicly traded and hence are not subject to ratings by these agencies.

Finally, should the Commission decide to continue to rely on Weiss ratings either as the sole or as one alternative method of assessing a financial institution's safety, America's Credit Unions recommends reducing the necessary rating from B- to C-. As the Weiss White Paper shows, a Weiss rating of C- or better is considered "secure" while only those institutions receiving a D+ or lower are considered "vulnerable." Reducing the necessary rating level to C-minus would thus not appear to appreciably increase the Commission's risk of loss while increasing the pool of financial institutions eligible to issue LOCs.

The Commission Should Apply LOC Revisions Broadly

Currently the Commission is providing relief from certain of its LOC rules through waivers. America's Credit Unions concurs with commenters that the Commission should align its LOC rules for the CAF II and RDOF programs rather than continue to rely on waivers.[13] Moreover, the Commission should apply the new LOC rules to any instance in which the Commission requires a LOC. This would bring much needed certainty and uniformity to the process.

Respectfully Submitted, Date: August 19, 2024

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[13] RiverStreet Communications of Virginia, et al. Comments at 3.