

MILLER TELEPHONE CO.
213 E. Main St.
Miller, MO 65707

October 3, 2019

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

**Re: WC Docket Nos. 10-90, 14-58, 07-135, and CC Docket No. 01-92
Miller Telephone Company
Petition for Waiver of A-CAM II Election Deadline and Request For a Revised A-
CAM Offer
Supplement to Petition**

Dear Ms. Dortch,

Miller Telephone Company (“Miller” or “Company”) hereby supplements its pending petition for waiver (“Petition”)¹ of the July 17, 2019 deadline for rate-of-return companies to notify the Federal Communications Commission (“FCC” or “Commission”) of its intent to elect Alternative Connect America Model (“A-CAM”) II support.² In its Petition, Miller requested that the Wireline Competition Bureau (“WCB”) recalculate its A-CAM II offer without the clearly erroneous Form 477 data filed by an unsubsidized fixed wireless provider, Total Highspeed, LLC (Total Highspeed). The following supplements the Petition by showing that Total Highspeed’s June 2018 FCC Form 477 data supports Miller’s claim that the fixed wireless provider does not offer broadband service in Miller’s service area and never did. Therefore, the FCC should expeditiously grant its Petition, and offer the Company an opportunity to elect A-CAM II with a revised calculation, as new information has been discovered.

In *ex parte* discussions held with Preston Wise, legal advisor to Chairman Ajit Pai, on June 25, 2019, Miller discussed the negative ramifications to the Company’s future Universal Service Fund (“USF”) support – under either the A-CAM II or Legacy support mechanism – due to Total Highspeed’s clearly overstated and grossly misrepresented broadband availability data reported on its Form 477.³ Subsequent to the discussions, Miller filed its Petition. In the *Ex Parte* and Petition, Miller demonstrated that Total Highspeed overreported its broadband availability to the extent that it appears that there is a competitive overlap of almost 100% of Miller’s very rural study area in Missouri by fixed wireless service at speeds of 500/500 Mbps. Miller also provided multiple explanations for why it is simply impossible for the fixed wireless provider to provide the purported type of broadband service in Miller’s study area and asked that

¹ See Petition of Miller Telephone Company for Waiver of A-CAM II Election Deadline and Request For a Revised A-CAM Offer, WC Docket No. 10-90 *et al.*, filed July 11, 2019 (“Petition”).

² See *Wireline Competition Bureau Issues Corrected Alternative Connect America Model II Offer to 37 Companies, Extends the Election Deadline, and Seeks Comment of Location Adjustment Procedures*, WC Docket No. 10-90, DA 19-504 (rel. June 5, 2019).

³ See Letter from John Kuykendall, Vice President, JSI, on behalf of Miller Telephone Company to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 14-58, 07-135, and CC Docket No. 01-92, filed June 27, 2019 (“*Ex Parte*”).

the FCC immediately remove Total Highspeed from being considered an unsubsidized competitor for the purpose of A-CAM II. Additionally, Miller asked that the FCC issue a revised A-CAM II offer to Miller, based on the facts provided in the *Ex Parte* and stated in the Petition. The following supplements this information and shows how the recently released June 2018 Form 477 broadband deployment data further supports Miller's position.

1. In Light of Total Highspeed's June 2018 Form 477 Filing, the FCC Should Immediately Grant Miller's Petition

Total Highspeed's recently released June 2018 Form 477 data, on its face, shows that its prior December 2017 Form 477 filing was overstated in terms of speed and coverage in Miller's study area. As shown in the attached maps and table, analysis of Total Highspeed's June 2018 Form 477 data shows slightly less than three fourths of Miller's study area is overlapped with speeds of 30/30 Mbps – as opposed to the previously reported and egregiously incorrect 500/500 Mbps.

- The first map contains Total Highspeed's December 2017 Form 477 data and shows that the fixed wireless provider reported that it provided service in almost all census blocks in Miller's study area. This resulted in an A-CAM II offer for Miller of only six locations in the few blocks that were not shown as overlapped.
- The second map contains Total Highspeed's June 2018 Form 477 data and shows that the fixed wireless provider significantly reduced the area where it previously reported coverage in Miller's study area.
- Additionally, as shown in the attached table, Total Highspeed reported speeds of 500/500 Mbps in its December 2017 Form 477 which is a technical impossibility for basic fixed wireless service in a sparsely populated, hilly, and forested terrain like that in Miller's service area. In those same census blocks, Total Highspeed now reports 30/30 Mbps.

The only plausible reason why these dramatic changes have occurred in reporting periods that are only six months apart is that Total Highspeed's previous claims that it could provide broadband service in the area were unfounded. However, rather than revising previous filings as filers are obligated to do when a significant error is discovered,⁴ we see no indication that Total Highspeed has made such revisions. Accordingly, Miller files this supplement to its Petition not only to bring the WCB's attention to the fact that the June 2018 data no longer shows an almost 100% overlap but also to urge the WCB to reject the erroneous Dec. 2017 data used when making Miller's A-CAM II offer and instead use data that is consistent with June 2018 data in considering Miller's Petition.

In sum, the WCB should grant the Petition and issue a revised A-CAM II offer to Miller using data in line with the June 2018 Form 477 submission to determine competitive overlap, not the erroneous December 2017 Form 477 data that was used in making the initial offer.

2. Grant of the Petition is in the Public Interest

Since there was no opportunity for a robust challenge process for the A-CAM II, conducting *ex parte* meetings and filing a waiver were the only ways Miller could attempt to

⁴ See FCC Form 477 Local Telephone Competition and Broadband Reporting Instructions at 7.5, Obligation to File Revisions.

seek relief from Total Highspeed's egregiously flawed Form 477 data that disqualified the Company from A-CAM II support for all but six locations. Apparently, these actions prompted Total Highspeed to revise the way that it has been reporting its broadband availability, at least as it concerns Miller's service area.

With the updated information, the WCB can now present an accurate A-CAM II offer and give Miller the opportunity to evaluate a fair offer based on the amount of support that it needs to deploy 25/3 Mbps broadband to all its rural customers. If the FCC were to accept Total Highspeed's December 2017 Form 477 data and refuse to revise Miller's A-CAM II offer, it would be completely inconsistent with the public interest since Miller's A-CAM II offer would be based on grossly misrepresented "facts." Relying on the December 2017 data, while ignoring the more accurate June 2018 data, would curtail Miller's ability to provide service to the residents and locations in its service area.

Miller still has significant doubts that Total Highspeed can provide 30/30 Mbps to approximately three fourths of the Company's study area, particularly because the fixed wireless provider's website continues to list its broadband speed packages with no speeds shown over 8 Mbps. Furthermore, after conducting a "secret shopping" inquiry, Total Highspeed employees told Miller's general manager that it was unlikely they could provide over 10 Mbps, if that, in the Miller area. Finally, Total Highspeed's prices exceed the FCC's broadband benchmark rates and have disqualified the fixed wireless provider from being considered a viable unsubsidized competitor in other contexts.⁵

In short, it is apparent that "good cause" exists for granting Miller's Petition. Total Highspeed's change from reporting speeds of 500/500 Mbps in December 2017 to 30/30 Mbps in June 2018, with fewer blocks in the Miller study area reported than on previous filings, supports Miller's Petition and provides the WCB with new compelling evidence that must be taken into consideration.

The newly released June 2018 Form 477 data confirms that Total Highspeed does not offer the broadband service that it previously claimed to offer in Miller's service area. Additionally, granting Miller's Petition would serve the public interest, especially for those residents living in Miller's very rural service area. Therefore, the FCC should expeditiously grant Miller's Petition and make a revised A-CAM II offer to Miller.

Respectfully Submitted,

Miller Telephone Company

By: /s/ John Ludenia

John Ludenia, Vice President

Miller Telephone Company

213 E Main Street

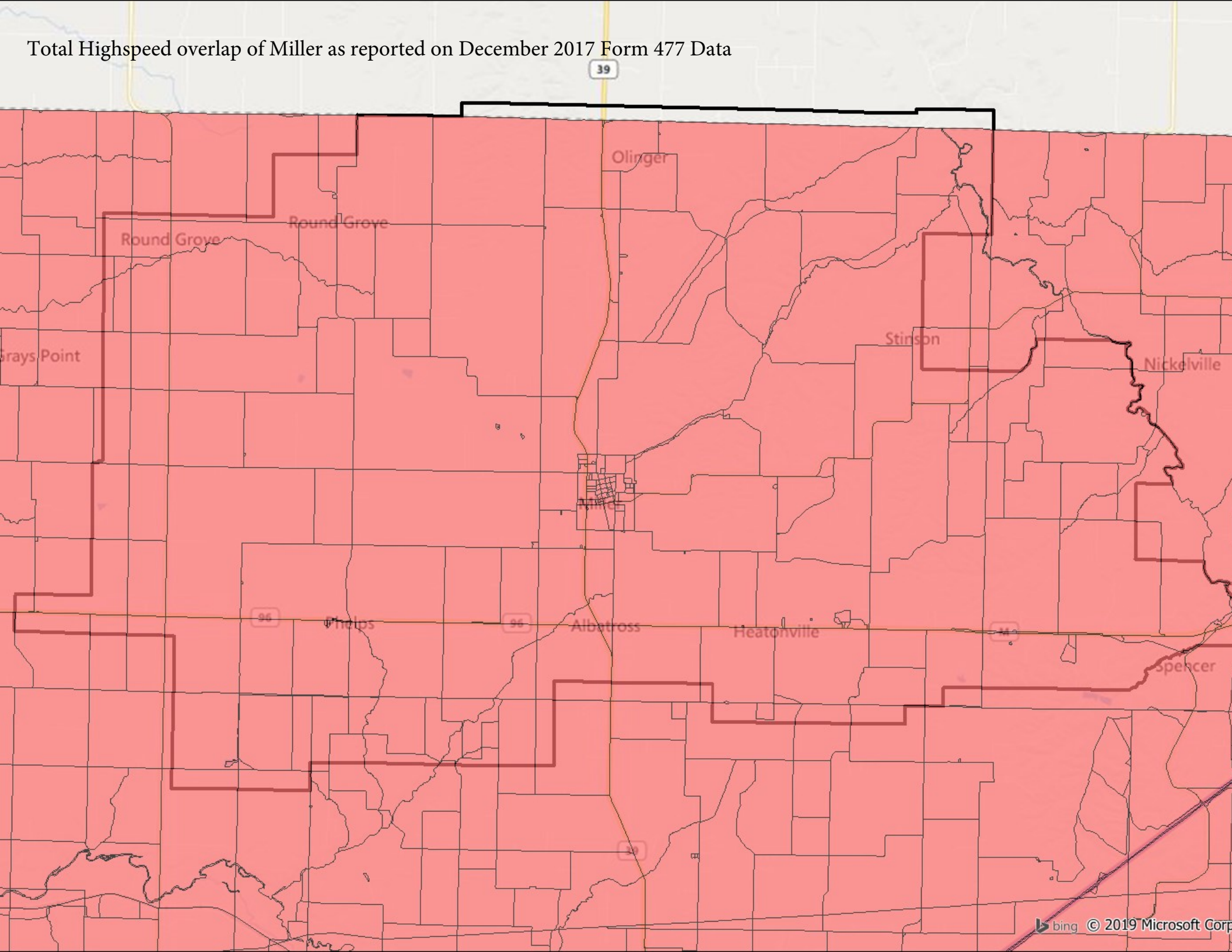
Miller, MO 65707

Attachments

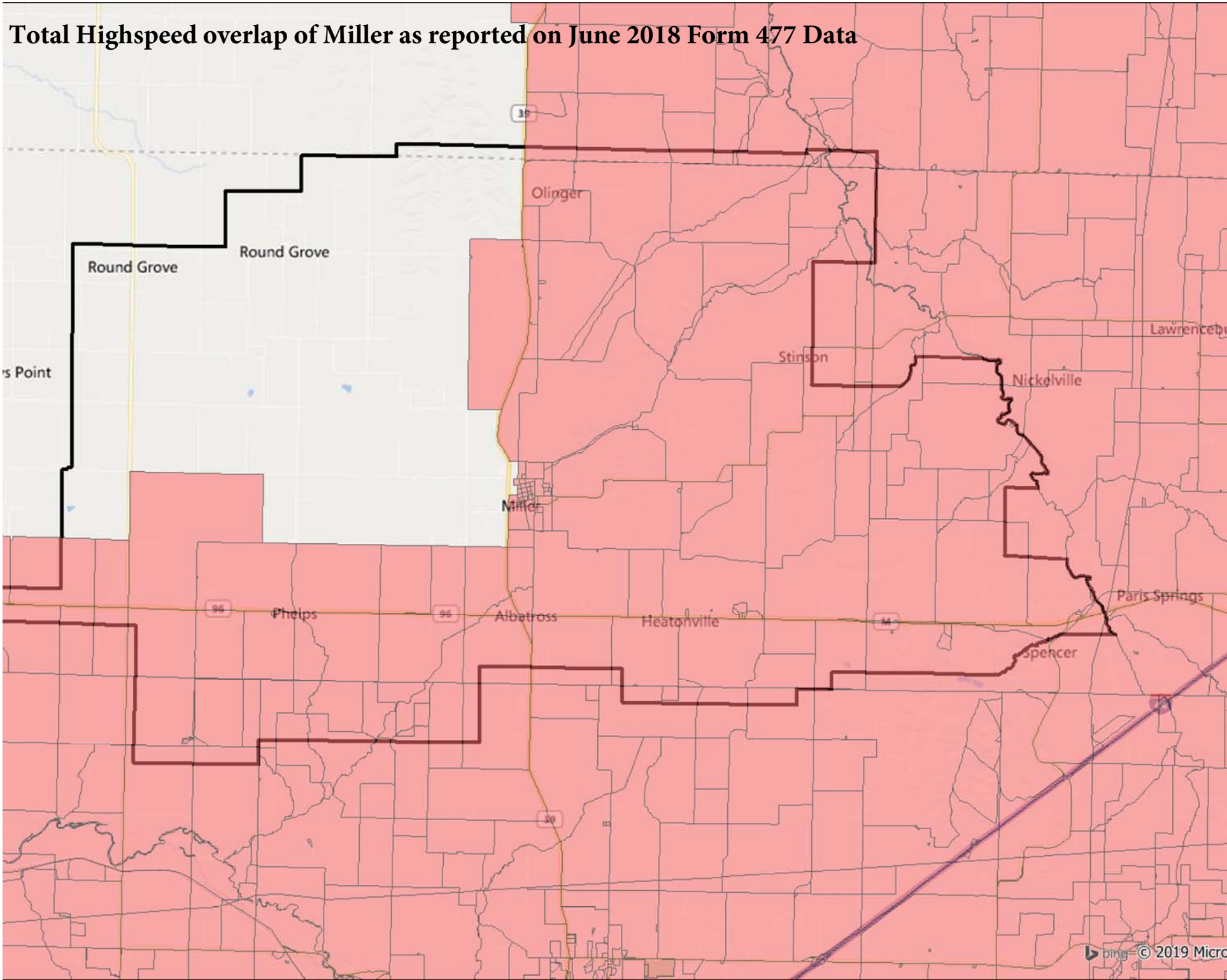
October 3, 2019

⁵ The FCC has already granted an A-CAM I challenge specifically directed at Total Highspeed once before. In 2016, the FCC removed Total Highspeed from being considered an unsubsidized competitor to a rate-of-return carrier when the Commission was presented with the same type of evidence that Miller has presented in its Petition. *See* In the Matter of Connect America Fund, WC Docket No. 10-90, Order, DA 16-842, para. 41.

Total Highspeed overlap of Miller as reported on December 2017 Form 477 Data



Total Highspeed overlap of Miller as reported on June 2018 Form 477 Data



December 2017 Form 477 Data

Technology Code	Consumer	Max Advertised Downstream Speed (mbps)	Max Advertised Upstream Speed (mbps)	Business	Max CIR Downstream Speed (mbps)	Max CIR Upstream Speed (mbps)
70	1	500	500	1	500	500

June 2018 Form 477 Data

Technology Code	Consumer	Max Advertised Downstream Speed (mbps)	Max Advertised Upstream Speed (mbps)	Business	Max CIR Downstream Speed (mbps)	Max CIR Upstream Speed (mbps)
70	1	30	30	1	30	30