

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	

**WITHDRAWAL OF PETITION FOR CLARIFICATION  
OR, IN THE ALTERNATIVE, RECONSIDERATION**

Hughes Network Systems, LLC (“Hughes”) hereby withdraws its Petition for Clarification or, in the Alternative, Reconsideration, in the above-referenced docket.<sup>1</sup> In the Petition, Hughes argued (1) that the decision in the *Performance Metrics Order* to limit high-latency bidders to the use of one portion of the ITU-T P.800 testing protocol (the conversational opinion test) for demonstrating the required Mean Opinion Score (“MOS”) of 4 or greater should not apply to recipients of Connect America Fund (“CAF”) support distributed through the New NY Broadband program,<sup>2</sup> or, in the alternative, (2) that the Commission should reconsider its narrowing of the P.800 testing protocol for a number of reasons.<sup>3</sup>

On September 12, 2019, the Commission staff released an Order on Reconsideration in this docket that concludes that the CAF recipients via the New NY Broadband Program are

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<sup>1</sup> Hughes Network Systems, LLC, Petition for Clarification or, in the Alternative, Reconsideration, WC Docket No. 10-90 (filed Sept. 19, 2018) (“Petition”). The Petition sought clarification or reconsideration of *Connect America Fund*, Order, 33 FCC Rcd 6509 (WCB WTB OET 2018) (“*Performance Metrics Order*”).

<sup>2</sup> Petition at 3-4.

<sup>3</sup> *Id.* at 4-7.

subject to the *Performance Metrics Order*<sup>4</sup> but made significant modifications to the MOS testing framework.<sup>5</sup>

On September 25, 2019, Hughes submitted a letter indicating that it is willing and able to comply with the testing framework set out in the *MOS Reconsideration Order*.<sup>6</sup> This conclusion is based on Hughes's technical review of the *MOS Reconsideration Order*. Hughes's initial concern with the *Performance Metrics Order* was that it contained provisions that added uncertainty to the execution of tests and statistical interpretation of test results, which the *MOS Reconsideration Order* addresses.

For example, although the ITU P.800 standard includes substantial detail regarding the test environment and test subjects,<sup>7</sup> the *Performance Metrics Order* indicated that testing would be done with average customers as subjects, who would not necessarily be impartial, and conducted in the uncontrolled environment of the customers' homes, where environmental factors such as noise could have an unacceptable impact on testing.<sup>8</sup> In addition, although the other performance metrics such as throughput and latency are measured with the FCC's "80/80" compliance framework, the MOS testing did not include this provision.<sup>9</sup> The result of the

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<sup>4</sup> *Connect America Fund*, Order on Reconsideration, DA 19-911, at ¶ 27 (WCB WTB OET rel. Sept. 12, 2019) ("*MOS Reconsideration Order*").

<sup>5</sup> *Id.* at ¶¶ 18-22.

<sup>6</sup> Letter from Jennifer A. Manner, Hughes, to Marlene H. Dortch, FCC, WC Docket No. 10-90 (filed Sept. 25, 2019).

<sup>7</sup> See ITU-T P.800, *Methods for Subjective Determination of Transmission Quality*, at 5-11 (Aug. 1996).

<sup>8</sup> *Performance Metrics Order*, 33 FCC Rcd at 6525-26 ¶ 45.

<sup>9</sup> See Letter from Jennifer A. Manner, Hughes, to Marlene H. Dortch, FCC, WC Docket No. 10-90, at 1-2 (July 16, 2018).

*Performance Metrics Order* was substantial uncertainty in the ability of a provider to demonstrate compliance.

The *MOS Reconsideration Order* addresses these vagaries to Hughes' satisfaction. For example, testing may now be conducted at a centralized controlled environment with independent test administrators and subjects.<sup>10</sup> In addition, the test results can be trimmed using standard statistical methodologies permitting the removal of outliers.<sup>11</sup>

Because the *MOS Reconsideration Order* has removed crucial elements of the factual predicate for the Petition, Hughes believes that the Petition is now moot.

Based on the foregoing, Hughes withdraws the Petition.

Respectfully submitted,

By: \_\_\_\_\_/s/\_\_\_\_\_  
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October 10, 2019

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<sup>10</sup> *MOS Reconsideration Order* at ¶ 22.

<sup>11</sup> *Id.* at ¶ 20.