

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

REPLY TO RESPONSE TO INFORMAL REQUEST FOR COMMISSION ACTION

The Rural Wireless Association, Inc. (“RWA”), pursuant to Section 1.41 of the Federal Communications Commission’s (“FCC” or “Commission”) rules, files this Reply to the Response¹ filed by T-Mobile USA, Inc. (“T-Mobile”) to the Informal Request for Commission Action filed by RWA in this proceeding. The Informal Request asked the Commission to take certain actions in connection with the Mobility Fund Phase II (“MF II”) coverage data submitted by T-Mobile in this proceeding.

T-Mobile argues that the Informal Request should be rejected as an untimely request for review or reconsideration of the Commission’s MF II Challenge Process Order or because it may have violated the Commission’s customer proprietary network information (“CPNI”) rules. As discussed below, neither of these arguments provides a basis for ignoring the significant issues raised in the Informal Request.

I. The Response Does Not Dispute the Evidence or Allegations Factual Issues Raised in the Informal Request

Most significantly, T-Mobile does not attempt to rebut any of the evidence or the allegations presented in the Informal Request. The Informal Request provided evidence that T-Mobile’s claimed coverage in certain areas was grossly overstated, and alleged that it was likely fabricated or based on projected future coverage rather than current coverage as required by the Commission’s MFII data collection process. T-Mobile’s Response *does not dispute any of this evidence or the allegations*. T-Mobile’s only critique of the Informal Request is based on alleged procedural deficiencies and its unsupported conjecture about RWA members’ motives.

¹ Letter from Cathleen A. Massey to Marlene H. Dortch, WT Docket No. 10-208, WC Docket No. 10-90, Jan. 30, 2019 (“Response”).

II. The Informal Request is a Valid Procedural Vehicle for Raising the Claims at Issue Here

Section 1.41 of the Commission's rules states that requests for Commission action may be submitted informally except where formal procedures are required under Title 47, Chapter 1. Contrary to T-Mobile's assertions, there are no formal procedures required for raising the issues addressed in the Informal Request. T-Mobile argues that the actions requested by RWA amount to an untimely request for review or reconsideration of the challenge process the FCC adopted in its *MF II Challenge Process Order*.² RWA has not requested that any rules adopted in the *MF II Challenge Process Order* be reconsidered. What RWA has requested is that, based on evidence submitted during the course of the MF II challenge process demonstrating at best the unreliability of coverage data submitted by T-Mobile, and at worst the intentional fabrication of such data, the Commission investigate the 4G LTE coverage claimed by T-Mobile. The over 90% fail rate³ of the speed test data of three of RWA's members who spent significant resources drive testing areas claimed by T-Mobile to have 5 Mbps download speeds raises substantial questions about the accuracy of the coverage data submitted by T-Mobile. That this astronomical fail rate occurred in three different geographic areas strongly suggests that such results are not an anomaly or isolated to one area of the country. To the extent the Commission confirms that the data submitted by T-Mobile has been fabricated or based on projected future coverage, RWA requested that the Commission take appropriate action against T-Mobile including (1) barring T-Mobile from participating in the MF II Phase II reverse auction; (2) requiring T-Mobile to reimburse challengers for their costs associated with the challenge process; and/or (3) issuing appropriate sanctions for misrepresentation submitted by T-Mobile under penalty of perjury. The issues raised by RWA against T-Mobile are serious and go directly to the Commission's public interest responsibilities. To ignore such issues, regardless of the vehicle in which they are raised, would amount to a dereliction of duty.

RWA also notes that the submission of the data contained in the Informal Request was done at the request of Commission staff and in direct response to T-Mobile's challenges to

² *Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282 (2017) (“*MF II Challenge Process Order*”).

³ In the area tested by Sagebrush Cellular, Inc., 98.07 percent of test points for which data was collected tested below 5 Mbps download speed or did not register 4G LTE service at all on T-Mobile designated handsets. In the area tested by Panhandle Telecommunication Systems, Inc., 98.10 percent of test points for which data was collected tested below 5 Mbps download speed or did not register 4G LTE service at all on T-Mobile designated handsets. In the area tested by Pine Belt Cellular, Inc., 90.02 percent of test points for which data was collected tested below 5 Mbps download speed or did not register 4G LTE service at all on T-Mobile designated handsets. Informal Request at pp. 6-7.

RWA's challenges to the accuracy of T-Mobile coverage data as unsupported.⁴ RWA also notes that it filed a similar Informal Request for Commission Action involving Verizon in connection with its coverage data and that Verizon never challenged the procedural vehicle employed by RWA for bringing similar information to the Commission's attention.⁵

III. T-Mobile's Allegations of "Apparent" CPNI Violations Provide no Basis for Rejecting the Informal Request

T-Mobile argues that the Informal Request should be rejected because it contains information obtained in "apparent" violation of the FCC's CPNI rules. Contrary to T-Mobile's speculation, the Informal Request did not contain CPNI. RWA provided no individually identifiable customer information. T-Mobile mischaracterizes the Informal Request when it states that "RWA itself acknowledges that use of confidential T-Mobile information in the Informal Request is subject to the CPNI rules."⁶ RWA specifically stated that any records subject to the FCC's CPNI rules "are *not* being provided at this time."⁷

Moreover, T-Mobile's unsupported allegations of apparent CPNI violations provide no basis for rejecting the Informal Request. Even *assuming arguendo* that the Informal Request contained CPNI in violation of the CPNI rules, such CPNI would not render the Informal Request defective.

IV. Conclusion

T-Mobile's remaining argument -- that the Informal Request is a "further attempt to impede competition" -- is baseless and not relevant to the issues regarding T-Mobile's overstated

⁴ Letter from Caressa D. Bennet to Marlene H. Dortch, WT Docket No. 10-208, WC Docket No. 10-90, WC Docket No. 18-89, WT Docket No. 18-197, December 10, 2018; Letter from Kathleen O'Brien Ham to Marlene H. Dortch, WT Docket No. 10-208, WC Docket No. 10-90, December 14, 2018; Letter from Caressa D. Bennet to Marlene H. Dortch, WT Docket No. 10-208, WC Docket No. 10-90, December 28, 2018.

⁵ Informal Request of the Rural Wireless Association, Inc. for Commission Action, WC Docket No. 10-90, WT Docket No. 10-208, filed August 6, 2018.

⁶ Response at p. 5, n. 17.

⁷ Informal Request at 15 (emphasis added).

coverage.⁸ For the reasons stated herein, there is nothing in T-Mobile's Response that should deter the Commission from taking the action requested in the Informal Request.

Respectfully submitted,

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⁸ Response at pp. 5-7. T-Mobile's statement that "RWA members have long provided inferior service" is ludicrous and totally without support.

Certificate of Service

I, Linda Braboy, certify that on this day of February 6, 2019, copies of the foregoing Reply to Response to Informal Request for Commission Action of the Rural Wireless Association, Inc. were sent via U.S. Mail to the following:

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