

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Wireline Competition Bureau Seeks Comment on	)	
Procedures to Identify and Resolve Location	)	
Discrepancies in Eligible Census Blocks Within	)	
Winning Bid Areas	)	

**COMMENTS OF HUGHES NETWORK SYSTEMS LLC**

Hughes Network Systems LLC (“Hughes”) submits these comments in response to the Commission’s public notice on proposals to implement a process for resolving location discrepancies at issue for Connect America Fund (“CAF”) Phase II support recipients.<sup>1</sup> Hughes’s participation in CAF Phase II is limited to Phase II support distributed through the New NY Broadband Program.<sup>2</sup>

As the Commission has acknowledged, the information in the Commission’s cost model about customer locations is imperfect in many instances, and support recipients need a process to correct inaccuracies so that their deployment obligations are achievable.<sup>3</sup> Hughes therefore supports this effort to perfect that process. As discussed in more detail below, Hughes urges the Commission to permit providers to use reliable third-party vendors for this process, and to ensure that the standards of accuracy adopted do not impose an unreasonable burden on support recipients, USAC, or the Commission staff.

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Procedures to Identify and Resolve Location Discrepancies in Eligible Census Blocks Within Winning Bid Areas*, Public Notice, DA 18-929 (WCB rel. Sept. 10, 2018) (“Public Notice”).

<sup>2</sup> *See Connect America Fund, et al.*, Order, 32 FCC Rcd 968 (2017) (“NY CAF Order”).

<sup>3</sup> *See* Public Notice at ¶¶ 5-7.

*Definition of an Actual Location.* The Commission has already defined the sorts of locations that CAF-II support will find – residential and small business locations served with mass market services (rather than dedicated facilities).<sup>4</sup> Within this category of locations that are eligible to receive service with CAF-II support, the Commission should avoid imposing evidentiary burdens beyond those that are strictly necessary, in order to minimize costs and delays that ultimately affect the Commission, support recipients, and the Universal Service Administrative Company (“USAC”) alike. For example, the Public Notice suggests that a support recipient might have to offer proof that a location, though unoccupied, is not “abandoned, derelict, condemned, or otherwise uninhabitable.”<sup>5</sup> It is unclear how a support recipient could determine whether any particular uninhabited residential or small business location is abandoned, derelict, condemned, or otherwise uninhabitable. Any effort to do so certainly would not be worth the effort for the provider, any more than it would be worth USAC’s or the Commission’s time to adjudicate whether the provider has reached the correct conclusion.

*Reliability and Validity of Evidence of Locations.* The Bureau should be similarly pragmatic when it comes to the “methodological and evidentiary standards necessary to ensure that participants have used geolocation method(s) consistently and comprehensively to accurately identify all actual locations in eligible areas within the state.”<sup>6</sup> The reality is that most CAF-II recipients (and certainly all smaller providers) lack the internal resources to perform broad-scale geocoding of potential customer locations and therefore will have to use third-party

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<sup>4</sup> Public Notice at ¶ 8.

<sup>5</sup> Public Notice at ¶ 8.

<sup>6</sup> *Id.* at ¶ 12.

geolocation providers in order to identify locations in the areas where they are the winning bidders. The use of such third-party geocoding providers accordingly should be permitted. These third-party geocoding providers are unlikely to reveal the details of their geolocation methodologies, given that these are proprietary and intended to establish their competitive edge. Thus, CAF-II recipients may be required to disclose to the Commission which third-party geolocation provider they used to determine their eligible locations, but the Commission should not attempt to require support recipients to disclose proprietary processes used by their vendors. The Commission may, of course, undertake whatever investigation it deems appropriate into such vendors' practices, and Hughes expects that such vendors would have an incentive to provide information to the Commission sufficient to establish that their processes meet Commission standards. The Commission also should not require support recipients to provide results from multiple vendors, as there is no obvious way to select between or among such vendors in the event that their data differ.

In any event, support recipients' obligations should not extend to the submission of photographic evidence to establish the eligibility or ineligibility of certain locations.<sup>7</sup> As discussed above, the Commission should avoid creating excessive evidentiary burdens for support recipients, USAC, or the Commission itself, and make every effort to simplify the validation process.

*Audits.* Hughes agrees that audits should be triggered by signs that the support recipient is not meeting its obligations, such as frequently misreporting location evidence or significant differences between reported and actual locations.<sup>8</sup> In determining its audit program, the

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at ¶ 28.

Commission should bear in mind, however, Hughes's comments above noting that no location data ever will be perfect, and that it would be a poor use of the resources of support recipients, USAC, and the Commission to attempt to impose a level of accuracy on the process of determining locations beyond that which is reasonably practicable. The audit program should reflect these realities.

Hughes urges the Commission to adopt mechanisms for providers to correct the model's location information consistent with the comments above.

Respectfully submitted,

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