



October 31, 2016

**Via ECFS**

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

**RE: NOTICE OF EX PARTE**  
**WT Docket No. 10-208: *Universal Service Reform – Mobility Fund***  
**WC Docket No. 10-90: *Connect America Fund***

Dear Ms. Dortch:

On October 27, 2016, Robert A. Silverman of Bennet & Bennet PLLC and I met with Claude Aiken, Legal Advisor to Commissioner Mignon Clyburn; Amy Bender, Legal Advisor to Commissioner Michael O’Rielly; and Travis Litman, Legal Advisor to Commissioner Jessica Rosenworcel regarding the above-referenced proceeding. On October 28, 2016, we met with Stephanie Weiner, Legal Advisor to Chairman Tom Wheeler and Nicholas Degani, Legal Advisor to Commissioner Ajit Pai.

During the meetings, we discussed the contents of RWA’s October 27, 2016 *ex parte* letter to Chairman Wheeler regarding the proposed Order adopting rules for Mobility Fund Phase II (“Order”).<sup>1</sup> We highlighted concerns over specific key components of the draft Order that bear further consideration through a further notice of proposed rulemaking in lieu of being hastily adopted without proper notice and comment under the Administrative Procedure Act. The issues that RWA identified that require further rulemaking include: (1) the method for determining coverage data accuracy, including a definition for what constitutes coverage, (2) how to account for technological network incompatibilities for voice fallback that require, in limited circumstances, the support of two subsidized carriers in the same area (*i.e.*, the GSM/CDMA switch voice fallback needed where VOLTE is not deployed), (3) the determination of the budget for Mobility Fund Phase II, (4) the funding disbursement mechanism shortfalls, and (5) problems with the processes for transitioning from legacy high-cost support.

We also cautioned that the reliance on delegated authority to the Wireless Telecommunications Bureau, which does not have the benefit of long-term experience dealing with complicated high

---

<sup>1</sup> [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc. to the Honorable Tom Wheeler, Chairman, Federal Communications Commission, WT Docket No. 10-90, WT Docket No. 10-208 (October 27, 2016).

cost funding issues, exacerbates problems associated with the use of public notices to further develop and guide the outcome of Mobility Fund Phase II and will not result in a complete and accurate administrative record. Unlike Mobility Fund Phase I, which set out to distribute \$300 million in one-time funding for expansion of 3G and LTE, Mobility Fund Phase II will potentially distribute over \$2.35 billion over five years and could result in the loss of current 2G, 3G, and LTE coverage in rural areas that currently receive support and are the only service available. With the stakes this high, RWA encouraged the respective Commissioners' legal advisors to insist on an Order for those issues that are ripe for adoption because they have been through the formal rulemaking process, and to insist that those issues that have not been vetted in the rulemaking process be considered in a Further Notice of Proposed Rulemaking. Additionally, RWA advised the legal advisors to ensure that the Wireless Telecommunications Bureau be given temporary support from the Wireline Competition Bureau on relevant high-cost issues.

Please direct any questions to the undersigned. Pursuant to Section 1.1206 of the FCC's Rules, 47 C.F.R. § 1.1206, this *ex parte* is being filed electronically with the Office of the Secretary.

Respectfully submitted,

/s/ Caressa D. Bennet

Caressa D. Bennet, General Counsel

P.O. Box 50551

Arlington, VA 22205-5551

(202) 551-0010

[legal@ruralwireless.org](mailto:legal@ruralwireless.org)

**Copied via Email:**

Chairman Tom Wheeler

Commissioner Mignon Clyburn

Commissioner Jessica Rosenworcel

Commissioner Ajit Pai

Commissioner Michael O'Rielly

Claude Aiken

Amy Bender

Travis Litman

Stephanie Weiner

Nicholas Degani