

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

REPLY OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ hereby files this reply in response to the Application for Review of the Rural Wireless Association, Inc. (“RWA”)² regarding procedures established in a Public Notice issued on February 27, 2018, by the Federal Communications Commission’s (“FCC” or “Commission”) Rural Broadband Auctions Task Force, Wireless Telecommunications Bureau, and Wireline Competition Bureau (collectively, “the Bureaus”).³ CCA supports RWA’s request to increase the grid cell size from one (1) square kilometer with a 400 meter buffer⁴ to one (1) square mile with a quarter (1/4) mile buffer.⁵ The FCC’s current

¹ CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members that provide products and services throughout the mobile communications supply chain.

² Application for Review of the Rural Wireless Association, Inc., WC Docket No. 10-90, WT Docket No. 10-208 (filed March 29, 2018) (“RWA Application for Review”).

³ *Procedures for the Mobility Fund Phase II Challenge Process*, Public Notice, DA 18-186, WC Docket No. 10-90, WT Docket No. 10-208, (rel. Feb. 27, 2018) (“Challenge Procedures PN”).

⁴ As explained herein, on April 30, 2018, the Bureaus released an Order on Reconsideration on their own motion that increased the speed measurement distance to 800 meters, which, in turn, increased the buffer radius from one-quarter (1/4) kilometer to 400 meters (or four-tenths (4/10) of a kilometer). The Bureaus’ Order on Reconsideration did not directly address RWA’s Application for Review, including the request to increase the grid size to one mile and the buffer zone to a quarter (1/4) mile. *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration, DA 18-427, WC Docket No. 10-90, WT Docket No. 10-208 (rel. Apr. 30, 2018) (“Challenge Procedures Order on Reconsideration”).

⁵ Challenge Procedures PN ¶ 20.

challenge process procedures leave significant rural areas of the country impossible to challenge, creating an even larger digital divide than exists today. The Commission must correct this as soon as feasible.

The Bureaus established procedures to implement the challenge process framework adopted in the MF II Challenge Process Order.⁶ Per the Challenge Procedures PN, the Bureau will assess challenges using a uniform grid with cells of one (1) square kilometer and a “buffer” with a radius equal to one-half of the maximum distance parameter. Because the Bureaus decided that speed test measurements could be taken no further than one-half (1/2) kilometer apart from one another, the established buffer was a quarter (1/4) kilometer.⁷

The Bureaus adopted this measurement despite clear concerns raised by RWA and other parties.⁸ For instance, CCA member U.S. Cellular has looked at maps in 16 of its states, from flat to mountainous. U.S. Cellular’s research indicates that a one (1) kilometer grid size along with a 250-meter buffer zone will make it impossible for any challenger to submit data to the Commission within the challenge window for 78 percent of areas within its footprint that are

⁶ *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd. 6282 (2017) (“MF II Challenge Process Order”).

⁷ Challenge Procedures PN ¶ 20. The Challenge Procedures PN concluded that the Bureaus “will determine whether a challenger’s speed test points substantially cover a challenged area (*i.e.*, cover at least 75 percent of the challenged area) by buffering each speed test point that reports a downstream speed less than 5 Mbps, calculating the buffered area, and then comparing the area of the buffered points to the challengeable area within a 1 km by 1 km grid cell.”

⁸ See Comments of the Rural Wireless Association, Inc. at 3-4, WC Docket No. 10-90, WT Docket No. 10-208 (filed Nov. 8, 2017) (“RWA Comments”); See also Comments of ATN International, Inc. at 4, WC Docket No. 10-90, WT Docket No. 10-208 (filed Nov. 8, 2017); Reply Comments of U.S. Cellular Corporation at 10, WC Docket No. 10-90, WT Docket No. 10-208 (filed Nov. 29, 2017); Reply Comments of NTCA – The Rural Broadband Association at 5, WC Docket No. 10-90, WT Docket No. 10-208 (filed Nov. 29, 2017).

eligible to be challenged because they lack sufficient roads to achieve the FCC's 75% area requirement.

Of particular importance, RWA noted that in the majority of rural America, roads are situated directly on the borders of a one (1) mile by one (1) mile grid, leaving no access to drive a one (1) square kilometer grid cell in most instances, thereby preventing viable challenges in such grid cells.⁹ Nevertheless, the Bureaus determined that the measurement would “ensure the accuracy of the submitted speed test challenge data while balancing the burden on small challengers.”¹⁰

Since RWA filed its Application for Review, the Bureaus released an Order on Reconsideration that replaced the requirement that speed test measurements must be taken no further than one-half (1/2) of a kilometer apart from one another, with a requirement that speed test measurements be taken no further than 800 meters (eight-tenths (8/10) of a kilometer) apart from one another, resulting in an associated buffer radius of 400 meters (four-tenths (4/10) of a kilometer).¹¹ However, the Order on Reconsideration did not increase the grid cell size from the current one (1) square kilometer and did not sufficiently increase the buffer radius.

The Order on Reconsideration asserts that the modified parameters will reduce the number of speed test measurements needed to file a successful challenge,¹² and “will significantly reduce the burden on potential challengers while not unduly compromising the Commission's interest in collecting accurate data that reflects consumers' experience.”¹³

⁹ RWA Comments at 3-4.

¹⁰ Challenge Procedures PN ¶ 21.

¹¹ Challenge Procedures Order on Reconsideration ¶ 4.

¹² *Id.*

¹³ *Id.*

Nevertheless, the Bureaus failed to address the important issues in RWA's Application for Review.¹⁴

The Commission directed the Bureaus to adopt a maximum distance between speed tests (a distance of up to one (1) mile) that "will strike the correct balance between the benefits of increased accuracy, and the harms of burdens on small carriers" and to implement additional parameters "to ensure that speed tests accurately reflect consumer experience in the challenged area."¹⁵ But the Bureaus' action conflicts with this directive by imposing excessive burdens on small carriers and adopting procedures that will result in less accurate data on the level of existing service in challenged areas. Specifically, the finding that a one (1) kilometer grid size and 400-meter buffer radius will result in more accurate mapping is unsupported and the burdens on challenging carriers are supported by record evidence.

Recent research and analysis filed by RWA also demonstrates the enormous burden challengers will face to collect data based on the current grid size.¹⁶ For instance, the analysis found that testing all unsubsidized coverage areas throughout the Oklahoma Panhandle will take 7,522 hours (or 50 hours per day for each of the 150 days in the challenge period) using the one (1) kilometer grid size and a quarter (1/4) mile buffer. The analysis then demonstrates that utilizing a one (1) mile grid with a quarter (1/4) mile buffer would alleviate the measurement problems considerably. As RWA explained, "[m]ore areas that are measurable using drive tests mean that these companies will have to expend fewer hours to compile the data necessary to

¹⁴ The Bureaus' Order on Reconsideration did not address the RWA Application for Review and, therefore, the issues raised in the RWA Application for Review are still properly before the Commission.

¹⁵ MF II Challenge Process Order ¶¶ 51-52.

¹⁶ Letter from Caressa D. Bennet, General Counsel, Rural Wireless Association, to Marlene Dortch, Secretary, FCC, WC Docket No. 10-90, WT Docket No. 10-208 (filed Apr. 20, 2018).

mount a challenge. This outcome will make coverage data more reliable and better ensure that MF II support is targeted to where it is needed.”¹⁷

And despite these burdens on carriers, Verizon incorrectly claims that RWA’s proposal will make the map less accurate.¹⁸ However, the Bureaus already increased buffer size, which demonstrates that an increase in size does not necessarily reduce accuracy. Indeed, the Bureaus held that “a slightly larger buffer radius will significantly reduce the burden on potential challengers while not unduly compromising the Commission’s interest in collecting accurate data that reflects consumers’ experience.”¹⁹ In addition, increasing grid cell size from one (1) kilometer to one (1) mile does not do enough to reduce the accuracy of areas that are unserved. Importantly, small inaccuracies caused by increasing the grid size would be dwarfed by the increased inaccuracy that would result if challengers are unable to produce the required challenge materials within the small challenge window.²⁰

As explained above and in the record, the Bureaus failed to consider or adequately address record evidence regarding the use of a one (1) kilometer grid cell size and 400-meter buffer radius. The Bureaus ignored evidence that this requirement will result in fewer challenges to areas eligible for MF II funding, and erroneously found that such parameters will result in more accurate mapping data that will accurately reflect consumer experience. Therefore, the

¹⁷ *Id.* at 4.

¹⁸ Opposition of Verizon at 3-4, WC Docket No. 10-90, WT Docket No. 10-208 (filed Apr. 27, 2018).

¹⁹ Challenge Procedures Order on Reconsideration ¶ 4.

²⁰ As noted, the FCC should expeditiously review the Application for Review and associated record to reduce the burden on parties and provide for more accurate information during the challenge process. Also, the Challenge Procedures PN violated the Administrative Procedure Act by failing to address important record evidence that the grid cell and buffer radius will lead to inaccurate mapping data, excessive measurements and an “insurmountable burden.” As RWA explained, these failures constitute prejudicial procedural error. RWA Application for Review at 9-10. To comply with the new challenge requirements, parties must be given an additional 90 days to complete the challenge process.

Commission should modify the Challenge Notice to require the use of a one (1) mile grid cell size and a quarter (1/4) mile buffer radius for eligible area challenges or remand the matter to the Bureaus with instructions to do the same and provide parties additional time to respond.

Respectfully submitted,

/s/ Rebecca Murphy Thompson

Steven K. Berry

Rebecca Murphy Thompson

Courtney Neville

COMPETITIVE CARRIERS ASSOCIATION

601 New Jersey Avenue NW, Suite 820

Washington, DC 20001

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