

**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

To: The Commission

**REPLY TO OPPOSITION**

Panhandle Telephone Cooperative, Inc. (“PTCI”) and Pine Belt Cellular, Inc. (“Pine Belt”) (together, the “Petitioners”), by their counsel and pursuant to Section 1.429 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”),<sup>1</sup> submit this Reply to Opposition in response to the *Verizon Opposition to Petitions for Reconsideration*<sup>2</sup> opposing several petitions filed by Petitioners and others<sup>3</sup> requesting that the Federal Communications Commission (“FCC” or “Commission”) reconsider certain provisions of its Mobility Fund Phase II (“MF-II”) *Report and Order*.<sup>4</sup>

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<sup>1</sup> 47 C.F.R. § 1.429.

<sup>2</sup> *Verizon Opposition to Petitions for Reconsideration*, WC Docket No. 10-90, WT Docket No. 10-208, (May 16, 2017) (“Opposition”).

<sup>3</sup> Petition for Reconsideration of Panhandle Telephone Cooperative, Inc. and Pine Belt Cellular, Inc., WC Docket No. 10-90, WT Docket No. 10-208 (Apr. 27, 2017) (“PTCI/Pine Belt Petition”); Rural Wireless Association, Inc. Petition for Reconsideration and/or Clarification, WC Docket No. 10-90, WT Docket No. 10-208, at pp. 2-11 (filed Apr. 12, 2017) (“RWA Petition”); Petition for Reconsideration and Clarification of United States Cellular Corporation, East Kentucky Network, LLC d/b/a Appalachian Wireless, Cellular Network Partnership d/b/a Pioneer Cellular, NE Colorado Cellular, Inc. d/b/a Viaero Wireless, Nex-Tech Wireless, LLC, Smith Bagley, Inc.; WC Docket No. 10-90; WT Docket No. 10-208 (Apr. 27, 2017) (“LLGS Rural Carriers Petition”); Petition for Reconsideration and/or Clarification of the Blooston Rural Carriers, WC Docket No. 10-90, WT Docket No. 10-208 (Apr. 27, 2017) (“Blooston Petition”).

<sup>4</sup> *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, WT Docket No. 10-208, FCC 17-11 (rel. Mar. 7, 2017) (“*MF-II Order*”).

**I. THE OPPOSITION MISCONSTRUES THE FCC’S AREA ELIGIBILITY SPEED THRESHOLD REQUIREMENT AND ENDORSES A PROVISION THAT WOULD PERPETUATE THE RURAL/URBAN DIGITAL DIVIDE.**

Petitioners and other parties seeking reconsideration have argued that the Commission should adopt a 10 Mbps download speed eligibility benchmark to mirror the MF-II 10 Mbps download / 1 Mbps upload performance requirement to ensure that consumers rural and high cost areas have access to mobile services that are reasonably comparable to such services provided in urban areas as mandated by Section 254(b)(3) of the Communications Act of 1934, as amended.<sup>5</sup> As to the Commission’s adoption of a vague 5 Mbps eligibility MF-II benchmark (without any companion upload speed threshold), the Opposition strains to substantiate this provision by guessing at how the Commission might possibly intend to apply a 5 Mbps eligibility benchmark.<sup>6</sup> However, the Commission has indicated that it views the 5 Mbps download speed threshold as a minimum speed (“at least 5 Mbps”) when referencing the relevant speed data reported in Form 477<sup>7</sup> and when proposing details of the MF-II challenge process.<sup>8</sup>

The Opposition additionally claims that, because carriers generally are reporting minimum advertised speeds of at least 5 Mbps, “it is reasonable to conclude that 5 Mbps is within the range of urban LTE speeds” and may even be “too high.”<sup>9</sup> Information submitted on the record and indeed the Commission’s own broadband data reveal that, not only are overall

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<sup>5</sup> See 47 U.S.C. § 254(b)(3).

<sup>6</sup> Opposition at 2 (considering possible Commission interpretations of a median or minimum 5 Mbps speed benchmark).

<sup>7</sup> *MF-II Order* at ¶51 (“[l]ooking to the mobile speeds generally reported by nationwide carriers on their Form 477 submissions, we find that such carriers are generally reporting the deployment of 4G LTE reported at minimum advertised download speeds of *at least* 5 Mbps. *We accordingly will use this speed benchmark to identify areas eligible for MF-II.*”) (emphasis added).

<sup>8</sup> *MF-II Order* at ¶232 (“[t]he challenge would consist of a certification by the challenging party that in a specific area, the party has a good faith belief, based on actual knowledge or past data collection, that there is not 4G LTE with *at least* 5 Mbps download speed coverage as depicted on Form 477.”) (emphasis added).

<sup>9</sup> Opposition at 4.

LTE speeds well in excess of 5 Mbps,<sup>10</sup> but most urban Americans already have access to 10/1 Mbps or faster LTE service whereas 87 percent of rural Americans do not.<sup>11</sup> Removing MF-II support from areas with 5 Mbps download speeds will lower the bar and further suppress mobile broadband growth and advancement in rural areas. Though the Opposition claims that raising the speed bench to 10 Mbps would expand eligibility for areas that already have towers, backhaul, and LTE service, it fails to note that in some cases (e.g., roaming arrangements, LTE partner arrangements) this tower, backhaul and LTE infrastructure was built or may be maintained through reliable access to high cost universal support.

**II. NO PARTY HAS OPPOSED ALLOWING MF-II AREA ELIGIBILITY CRITERIA TO CONTEMPLATE CIRCUIT SWITCHED NETWORK TECHNOLOGY TO ENSURE THE PRESERVATION OF VOICE SERVICES AND ACCESS TO 911 EMERGENCY SERVICES.**

Throughout the entire MF-II rulemaking and now reconsideration proceeding, the Petitioners and other parties have consistently argued and demonstrated the continuing need for areas served by only one unsubsidized LTE network technology for reliable voice service to remain eligible for MF-II support.<sup>12</sup> To date, not a single party has refuted the lingering

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<sup>10</sup> LLGS Rural Carriers Petition at 5 (“Today, a 5 Mbps/1 Mbps service level falls short of Congress’ objective that the FCC ensure that services in rural areas are reasonably comparable to urban areas. According to OpenSignal, the overall speed that Americans experience from mobile broadband networks is 12.34 Mbps download.”) (citing Written Statement of LeRoy T. Carlson, Jr., before the Subcommittee on Communications and Technology, U.S. House of Representatives Energy and Commerce Committee, “Broadband: Deploying America’s Twenty-First Century Infrastructure,” at 17 (Mar. 21, 2017)).

<sup>11</sup> *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Development Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 2016 Broadband Progress Report, 31 FCC Rcd. 699, ¶ 83, Table 4 (2016) (“2016 Broadband Progress Report”). See also LLGS Rural Carriers Petition at 5-6 (citing 2016 Broadband Progress Report showing that 45 percent of Americans in urban areas lack access to 10 Mbps/1 Mbps mobile broadband services).

<sup>12</sup> PTCI/Pine Belt Petition at 3.

incompatibility between GSM and CDMA network technologies or the extent to which mobile carriers continue to rely on these fallback circuit switched technologies to support voice services. In the *MF-II Order*, however, the Commission refused to preserve MF-II eligibility for areas where only one unsubsidized LTE carrier is present but continues to rely on its CDMA or GSM fallback circuit switched network to support voice services. Though the Commission's decision was based on the fiscal view that funding incompatible GSM and CDMA network technologies that are "being phased out by the marketplace"<sup>13</sup> would not be in the public interest, there are greater public interests at stake. Indeed, new feedback originating directly from Commission staff and Chairman Ajit Pai sheds more light on the hazards of placing too much confidence in the current reliability of voice over LTE (VoLTE)<sup>14</sup> and the continuing need for reliable fallback measures to ensure reliable voice service to provide reliable and continuous access to 911 service. Any outcome that falls short of this is, as characterized by Chairman Pai, "unacceptable."<sup>15</sup>

On May 18, 2017, the FCC's Public Safety and Homeland Security Bureau (Bureau) released its final *Report and Recommendations*<sup>16</sup> on the March 8, 2017 AT&T VoLTE 911

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<sup>13</sup> *MF-II Order* at ¶54.

<sup>14</sup> The Commission anticipates VoLTE to replace current voice services. *MF-II Order* at ¶86 ("As the transition to 4G LTE service and the transition of voice to voice over LTE technology become widespread, we anticipate that older devices will be retired and future devices will be LTE capable."). As the Petitioners and others have argued, however, the timing of this transition of networks and customers' handsets and devices to *fully interoperable* VoLTE nationwide is expected to last several years.

<sup>15</sup> *March 8th, 2017 AT&T VoLTE 911 Outage Report and Recommendations*, Statement of Chairman Ajit Pai, PS Docket No. 17-68 (May 18, 2017) ("Pai Statement") ("On March 8, 12,539 Americans who were AT&T customers tried to call 911. But they couldn't reach emergency services because of a nationwide outage of AT&T's VoLTE 911 network. When they placed that call, they heard fast busy signals, endless ringing, or silence. This was unacceptable. In times of trouble, Americans in need must be able to reach Americans who can help.")

<sup>16</sup> *March 8th, 2017 AT&T VoLTE 911 Outage Report and Recommendations*, Report and Recommendations, PS Docket No. 17-68 (May 18, 2017).

outage in which *nearly all* of AT&T's VoLTE customers across the nation lost 911 service for five hours and approximately 12,600 customers actually were prevented from reaching emergency services through the traditional 911 network.<sup>17</sup> Among other things, the Bureau found that AT&T failed to successfully implement its "process to drop VoLTE service and fall back to 3G for 911 calls during VoLTE 911 outages"<sup>18</sup> The Bureau notes that, during a second and unrelated VoLTE outage that took place on March 11, 2017 (and that the Bureau indicates will be the subject of another report), AT&T was able to successfully deliver most 911 VoLTE calls and that some VoLTE customers that could not be registered on AT&T's VoLTE network were instead registered on its 3G network by way of an automated process.<sup>19</sup> Without access to its fallback 3G network, the consequences of AT&T's VoLTE 911 outages may have been even more severe.

In a statement following the release of the Bureau's report, Chairman Pai specifically noted how "shortfalls in operational redundancies" were partly to blame for the March 8 outage.<sup>20</sup> Here, the Commission can foresee and prevent the circumstances that, in those rural areas where customers currently rely on ubiquitous GSM and CDMA mobile service from a subsidized and an unsubsidized carrier, would amount to a systematic 911 outage for customers of the subsidized carrier whose funding is slashed. The Petitioners unequivocally agree with Chairman Pai's statement that "[i]n times of trouble, Americans in need must be able to reach Americans who can help."<sup>21</sup> To this end, the Commission should reconsider its MF-II eligibility

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<sup>17</sup> *Id.* at ¶¶1-2.

<sup>18</sup> *Id.* at ¶28.

<sup>19</sup> *Id.*

<sup>20</sup> Pai Statement (May 18, 2017).

<sup>21</sup> *Id.*

criteria and allow areas served by only one unsubsidized LTE network technology for reliable voice service to remain eligible for MF-II support.

### **III. CONCLUSION**

Based on the foregoing, it remains in the public interest for the Commission to reconsider provisions of the *MF-II Order* and (1) adopt a 10/1 Mbps MF-II area eligibility speed threshold that to match the performance standard, and (2) consider the technology of circuit switched networks used for reliable fallback voice service and access to 911 emergency services when determining MF-II eligibility.

Respectfully submitted,

*/s/ Robert A. Silverman*

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May 26, 2017

## **CERTIFICATE OF SERVICE**

I hereby certify that I have on this day of May 26, 2017, served a true copy of the foregoing document by electronic mail upon the following:

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