

**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 TO PETITION FOR RECONSIDERATION**

The Rural Wireless Association, Inc. (“RWA”)<sup>1</sup> files this Reply to an Opposition to Petitions for Reconsideration<sup>2</sup> filed by Verizon in response to Petitions for Reconsideration filed by several parties<sup>3</sup> following the release of the Federal Communications Commission’s (“FCC” or “Commission”) Mobility Fund Phase II (“MFII”) Report and Order.<sup>4</sup>

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<sup>1</sup> RWA is a 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies that serve rural consumers and those consumers traveling in rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RWA’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RWA’s member companies serves fewer than 100,000 subscribers.

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

<sup>3</sup> [Rural Wireless Association, Inc. Petition for Reconsideration and/or Clarification](#), WC Docket No. 10-90, WT Docket No. 10-208 (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](#) 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*”); [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) (“*MFII R&O*”).

**I. THE COMMISSION SHOULD RECONSIDER ITS DECISION TO USE A 5 MBPS DOWNLOAD AREA ELIGIBILITY SPEED THRESHOLD AND INSTEAD USE A 10 MPBS DOWNLOAD THRESHOLD.**

In its Petition, RWA urged the Commission to reconsider its decision to utilize a 5 Mbps download threshold to determine an area's eligibility for MFII support and instead use a 10 Mbps threshold. RWA argued that the use of a 5 Mbps download threshold for determining whether an unsubsidized carrier provides qualifying LTE service (thereby causing its service area to be ineligible for MFII support) conflicts with the Commission's statutory mandate to ensure that rural areas have access to services that are reasonably comparable to those available in urban areas.<sup>5</sup> Other parties agreed, stating that a "5 Mbps benchmark...will neither advance the Commission's MF-II goals, nor promote reasonably comparable services for rural consumers."<sup>6</sup>

Verizon disagrees with Petitioners' argument "that the Commission must increase the download speed benchmark to 10 Mbps in order to ensure that rural LTE speeds are 'reasonably comparable' to urban LTE speeds..."<sup>7</sup> It argued instead that by "defining the buildout requirement as a *median* speed of 10 Mbps, the Commission recognized that urban consumers receive a range of LTE speeds – often including speeds well below 10 Mbps," and that "it is

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<sup>5</sup> *RWA Petition* at p. 2.

<sup>6</sup> *LLGS Rural Carriers Petition* at p. 3. *See also PTCI/Pine Belt Petition* at p. 8 (stating that the Commission's area eligibility speed threshold should mirror its 10/1 Mbps performance standard and that "the application of varying eligibility and performance requirements contradicts the Commission's statutory mandate to ensure that rural areas have access to services that are reasonably comparable to those available in urban areas"); *see also Blooston Petition* at p. 2 (questioning how the Commission can "suggest that it meets its mandate to fund 'reasonably comparable' services in rural areas by requiring MF-II recipients to provide 10/1 service, while at the same time eliminating from eligibility any area that is served by *half that speed*?") (emphasis in original).

<sup>7</sup> *Verizon Opposition* at p. 4.

reasonable to conclude that 5 Mbps is within the range of urban LTE speeds.”<sup>8</sup> But it is Verizon’s argument – not RWA’s – that is without merit. The Commission itself recognized that download speeds of 5 Mbps are *the minimum* 4G LTE advertised download speeds reported by nationwide carriers.<sup>9</sup> This doesn’t make 5 Mbps download speeds “reasonably comparable,” it makes them the bottom of the barrel. Verizon fails to address the fact that the Commission also has determined that a majority of urban consumers have access to mobile wireless broadband at 10 Mbps/1 Mbps speeds.<sup>10</sup> Further, the record in this proceeding shows that the overall speed that Americans experience from mobile broadband networks is 12.34 Mbps download,<sup>11</sup> more than double the 5 Mbps download threshold adopted by the Commission and not at all “reasonably comparable” as required by statute.<sup>12</sup>

Verizon notes that it isn’t clear from the petitions how the proponents of a 10/1 Mbps eligibility benchmark would apply that benchmark to determine eligible areas.<sup>13</sup> To clarify, RWA supports a *median* 10/1 Mbps area eligibility threshold – a service level that mirrors the MFII support buildout requirement. In addition to mirroring the buildout requirement, a median,

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<sup>8</sup> *Verizon Opposition* at p. 4.

<sup>9</sup> *MFII R&O* at ¶ 51 (stating “Looking 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.”)

<sup>10</sup> *LLGS Rural Carriers Petition* at pp. 5-6 (citing *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) (showing that 45 percent of Americans in urban areas are without access to 10 Mbps/1 Mbps mobile broadband services) (“*2016 Broadband Progress Report*”).

<sup>11</sup> *LLGS Rural Carriers Petition* at p. 5 (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 p. 17 (Mar. 21, 2017)).

<sup>12</sup> See 47 U.S.C. § 254(b)(3).

<sup>13</sup> *Verizon Opposition* at p. 3.

rather than minimum, threshold will accommodate fluctuations that can occur with weather, foliage, and high volume usage at certain points in time.

## **II. THE COMMISSION SHOULD CLARIFY THAT THE AREA ELIGIBILITY SPEED STANDARD INCLUDES A 1 MBPS UPLOAD THRESHOLD.**

In its Petition, RWA urged the Commission to clarify that the area eligibility speed standard includes a 1 Mbps upload threshold. Confusingly, and despite a number of docket filings that explicitly discuss the issue,<sup>14</sup> the Commission did not specify an accompanying upload speed threshold and mentions upload speed only in passing.<sup>15</sup> Other parties, too, have expressed concern regarding a lack of clarity and/or adequate discussion on this point.<sup>16</sup>

Verizon states that if an area is served by an unsubsidized carrier that meets a 5 Mbps download speed standard, then “it is clear” that the area has sufficient infrastructure and MFII

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<sup>14</sup> See e.g., [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (Nov. 10, 2016); see also [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90, at p. 1 (Feb. 14, 2017); see also [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90, at pp. 2-3 (Feb. 16, 2017) (all discussing the need for a 10/1 speed threshold); see also [Letter](#) from Christopher J. Wright, Harris, Wiltshire & Grannis LLP, Counsel to Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 and WT Docket No. 10-208, at p. 5 (Feb. 16, 2017) (discussing both upload and download thresholds); see also [Letter](#) from Mark N. Lewellen, Manager, Spectrum Policy, Deer & Company to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90, at p. 5 (Feb. 16, 2017) (urging the Commission “to consider identifying a minimum average upload speed as well as download speed to support precision agriculture” and “help farmers to take advantage of advanced telematics and agronomic analysis integral to precision agriculture.”)

<sup>15</sup> See *MFII Order* at ¶ 51 (discussing a minimum download speed of 5 Mbps and mentioning upload speed in that context); see also [Public Notice](#), *The Wireless Telecommunications Bureau and the Wireline Competition Bureau Propose to Release Form 477 4G LTE Mobile Speed Data to Facilitate Implementation of Mobility Fund II Support*, DA 17-286 (rel. Mar. 29, 2017) (“[t]o identify those geographical areas potentially eligible for such support, the Commission decided to use 4G LTE deployment at a minimum advertised download speed benchmark of at least 5 Mbps, based on service providers’ Form 477 filings”).

<sup>16</sup> *PTCI/Pine Belt Petition* at pp. 7-8 (calling the Commission’s area eligibility speed threshold “vague” because it “lacks a corresponding upload speed threshold (despite comments expressly urging the Commission to identify an upload speed)”).

support is unnecessary. The Commission should reject this unsupported contention. This conclusion is not at all clear – particularly because carriers claiming to provide “unsubsidized” service frequently use infrastructure built and installed with subsidies to provide such service.

Given the FCC’s establishment of “technology-neutral tiers of bids” for the Connect America Fund Phase II auction<sup>17</sup> requiring broadband speeds of at least 10 Mbps downstream and 1 Mbps upstream (10/1 Mbps)”<sup>18</sup> in the minimum performance tier, and the Commission’s explicit disagreement with the suggestion that it should adopt a mobile speed benchmark of 5 Mbps/1 Mbps because it was insufficient,<sup>19</sup> RWA believes that a minimum 1 Mbps upload threshold (as discussed in its petition) is reasonable. However, in keeping with the Commission’s upload buildout requirement of median 1 Mbps, a median 1 Mbps upload speed eligibility threshold would be acceptable.

### **III. CONCLUSION**

In order to ensure that rural consumers and those traveling in rural America have mobile broadband coverage that is “reasonably comparable” to urban consumers, the Commission should use a 10/1 Mbps area eligibility speed threshold. There is no program more vital to maintaining and expanding mobile voice and broadband services in rural America than MFII – as such, RWA looks forward to its continued work with the Chairman, Commissioners, Commission staff, and other parties in this proceeding.

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<sup>17</sup> *Connect America Fund, et. al.*, [Report and Order and Further Notice of Proposed Rulemaking](#), WC Docket No. 10-90, et. al., FCC 16-64, at ¶ 2 (rel. May 26, 2016) (*CAFII Order*).

<sup>18</sup> *Id.* (emphasis added).

<sup>19</sup> *2016 Broadband Progress Report* at ¶ 58.

Respectfully submitted,

**RURAL WIRELESS ASSOCIATION, INC.**

By: /s/ Caressa D. Bennet  
Caressa D. Bennet, General Counsel  
Erin P. Fitzgerald, Regulatory Counsel  
5185 MacArthur Blvd., NW, Suite 729  
Washington, DC 20016  
(202) 551-0010  
[legal@ruralwireless.org](mailto:legal@ruralwireless.org)

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:

Tamara L. Preiss ([tamara.preiss@verizon.com](mailto:tamara.preiss@verizon.com))  
William H. Johnson ([will.h.johnson@verizon.com](mailto:will.h.johnson@verizon.com))  
Verizon  
1300 I Street NW  
Suite 500-East  
Washington, DC 20005  
*Counsel for Verizon*

David A. LaFuria ([dlafuria@fcclaw.com](mailto:dlafuria@fcclaw.com))  
John Cimko ([jcimko@fcclaw.com](mailto:jcimko@fcclaw.com))  
Lukas, LaFuria, Gutierrez & Sachs, LLP  
8300 Greensboro Drive, Suite 1200  
Tysons, Virginia 22102  
*Counsel for Rural Wireless Carriers*

John A. Prendergast ([jap@bloostonlaw.com](mailto:jap@bloostonlaw.com))  
Salvatore Taillefer, Jr. ([sta@bloostonlaw.com](mailto:sta@bloostonlaw.com))  
Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP  
2120 L Street, NW, Suite 300  
Washington, DC 20037  
*Counsel for Blooston Rural Carriers*

Robert A. Silverman ([rsilverman@bennetlaw.com](mailto:rsilverman@bennetlaw.com))  
Bennet & Bennet, PLLC  
6124 MacArthur Boulevard  
Bethesda, MD 20816  
*Counsel for Panhandle Telephone Cooperative, Inc. and Pine Belt Cellular, Inc.*

/s/ Linda Braboy  
\_\_\_\_\_  
Linda Braboy, Paralegal  
Bennet & Bennet, PLLC  
6124 MacArthur Boulevard  
Bethesda, MD 20816  
202-371-1500