

United States Senate

WASHINGTON, DC 20510-4804

404

COMMITTEES
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
INTELLIGENCE
VETERANS' AFFAIRS

May 10, 2018

Received & Inspected
MAY 21 2018
FCC Mailroom

The Honorable Ajit Pai
Chairman
Federal Communications Commissions
445 12th Street SW
Washington, DC 20554

Dear Chairman Pai:

I commend you and the Federal Communications Commission (FCC) for moving forward with Mobility Fund II (MF-II) and encouraging a variety of stakeholders including state commissions, state-level broadband deployment offices, county and municipal executives and councils, and other governmental entities to ensure that the information about where service is or is not available is as accurate as possible. While I am neither a carrier required to file Form 477 data with the FCC nor an explicitly authorized governmental entity, I would note the FCC's statement in the rule governing challenge eligibility that it would "anticipate granting waivers in cases in which an individual, organization, or business demonstrates a bona fide interest in the challenge process and a plausible ability to submit a valid challenge". As demonstrated here, I meet both of those criteria and respectfully request a waiver so that I may do my part to ensure that these coverage maps represent the real-life experience of West Virginians.

As the Senior Senator from West Virginia, I am honored to have helped lead the effort to make MF-II a reality and believe that my long record of engagement on the issue demonstrates a clear bona fide interest in the challenge process. Over the past three years, I have repeatedly urged the FCC to make MF-II a priority by leading multiple bipartisan letters on the matter with over twenty of my Senate colleagues, hosting then-FCC Chairman Tom Wheeler in West Virginia in the summer of 2016, and personally meeting with you and my friend Roger Wicker (R-MS) in early 2017 to ensure that MF-II eligible areas were determined through a robust, reliable and standardized data collection and challenge process. As you have said yourself, "You can't manage what you can't measure."

In addition to my longstanding personal involvement in the MF-II proceeding, I can also demonstrate a bona fide interest in making sure the official broadband coverage maps accurately reflect the coverage available to consumers on the ground. The recently passed Fiscal Year 2018 omnibus spending bill (P.L. 115-141) included specific language I authored that requires the FCC to standardize its collection of wireless coverage data and ensure it is collected in a consistent manner. My intent when drafting this legislation was to codify a process similar to the approach adopted by the FCC in compiling the Initial Eligible Areas Map. Without this waiver, I cannot access the Universal Service Administrative Company (USAC) challenge process portal to see the data provided through that process or understand the additional barriers to participation that may keep state and local governments from playing an active role in the challenge process. Because of my extensive personal involvement in this process, I do not believe that my interests can be met through a separate state, local or tribal government entity.

As a sitting United States Senator, I have a plausible ability to submit a valid challenge. I have the authority to provide mobile broadband service to members of my staff whose responsibilities require frequent travel throughout West Virginia. I also have the discretion, within certain constraints, to select the mobile broadband provider and specific devices or handsets that allow my office to best serve the people of West Virginia. While it is impossible for me to view specific provider coverage data or the list of approved handsets without access to the USAC challenge process portal, I can demonstrate my existing authority as a Member of Congress to purchase an appropriate service plan from each unsubsidized service provider in the areas I wish to challenge and submit detailed proof of lack of unsubsidized, qualified 4G LTE coverage through application-based tests conducted between the hours of 6:00 AM and 12:00 AM local time and in accordance with all other requirements.

As a lifelong resident of West Virginia and proud public servant who tries to visit every county in the state at least once each year, I have extensive actual knowledge of the accuracy of the underlying data. I have driven nearly every mile of road in the Mountain State and experienced first-hand the loss of broadband coverage along the way. Consistent with rules already in place for challengers that are government entities and do not have a qualified engineer available to certify their data, I request the ability to personally certify the challenge data on behalf of my office due to my extensive actual knowledge of the accuracy of the underlying data, and I hereby provide the required information regarding the users that should have access to the challenge process portal on my behalf:

Wes Kungel (Wes_Kungel@manchin.senate.gov)

Ryan Thorn (Ryan_Thorn@manchin.senate.gov)

Brian Aluisse (Brian_Aluisse@manchin.senate.gov)

In my March 29th letter, I urged you to reach out to state and local governments to ensure that they were aware of the opportunities available to them through the MF-II challenge process, and I requested additional support for these entities throughout the challenge process. I sincerely appreciate the efforts you have taken to address my concerns, and I am grateful for your decision to send an official to West Virginia on May 18th to meet with stakeholders about the challenge process. But more needs to be done to ensure that submitting a challenge is not a daunting or burdensome task for local governments whose only interest is a desire to improve the quality of life for the people they represent. With this waiver, I can and will use the resources of my office to augment the efforts of the FCC and ensure that West Virginia stakeholders are aware of this opportunity and have the support they need throughout the challenge process.

Sincerely,



Joe Manchin III
United States Senator