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June 27, 2019

Via ECFS

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

**Re: WC Docket Nos. 10-90, 14-58, 07-135, and CC Docket No. 01-92
Miller Telephone Company
Notice of *Ex Parte***

Dear Ms. Dortch:

On Tuesday, June 25, David Damiani and John Michon of Miller Telephone Company (“Miller” or the “Company”), and John Kuykendall and Cassandra Heyne of JSI (“Miller Representatives” or “Representatives”) met with Preston Wise of the Office of Federal Communications Commission (“FCC”) Chairman Ajit Pai. The participants discussed the negative ramifications to Miller’s future Universal Service Fund support - under either the Alternative Connect America Model II (“A-CAM II”) or Legacy support mechanism due to a fixed wireless provider that has clearly overstated and grossly misrepresented its broadband availability on its Form 477 to the extent that it appears that there is a competitive overlap of near-100 percent of Miller’s very rural study area in Missouri. Additionally, by reviewing the pricing information provided on the fixed wireless provider’s own website, it is obvious the provider does not meet the FCC’s service obligation standards.

During the discussions, the Miller Representatives explained that in evaluating its A-CAM II offer, Miller discovered that out of 1,377 locations in its study area, a fixed wireless provider, Total Highspeed LLC, was shown overlapping **all but six** of the locations.¹ Given that Miller does not have any competitors who can provide 25/3 Mbps or greater in its study area, not only did this discovery raise questions regarding the legitimacy of this provider for A-CAM II purposes, but this also caused concerns as to whether the Company eventually could be subjected to a reverse auction procedure under the “slightly less than” 100 percent overlap policy if the Company declines the A-CAM II offer.

¹ Accounting for locations below the \$52.50 benchmark, Miller calculated that its A-CAM II offer should support 878 locations if the Form 477 data submitted by this fixed wireless provider was not considered.

The Miller Representatives then described that Total Highspeed reported on its most recent publicly available Form 477 that it serves nearly all of Miller's study area with **500 Mbps download/500 Mbps upload**, a technical impossibility for fixed wireless in a sparsely populated, hilly, and forested terrain like Miller's.² As evidence that the fixed wireless provider grossly overstated and misrepresented its broadband availability on its Form 477 and that the provider does not meet the FCC's service obligation standards, the Representatives provided the attached speed and pricing tiers shown on the fixed wireless provider's website and a schedule demonstrating that all of the speed and pricing tiers are significantly higher than the broadband price benchmarks.

The Representatives also described that the Company's general manager conducted a "secret shopping" exercise and called Total Highspeed requesting 50 Mbps download service in the town of Miller. The sales representative had to look at a map to see where Miller was located and then indicated that the highest speed the fixed wireless provider could offer in that area was **8 Mbps download for \$200 per month**, which is consistent with the highest speed and pricing tier indicated on the provider's website.³

The Miller Representatives then observed that under A-CAM I, the FCC found that a streamlined challenge process should be conducted prior to the release of the final version of model support. Under that process, the Wireline Competition Bureau ("Bureau") granted a challenge that was specifically directed at Total Highspeed and removed the fixed wireless provider from being considered an unsubsidized competitor when presented with the same type of evidence that Miller presented in this meeting.⁴ In the *Challenge Order*, the Bureau stated, "Information from a provider's website regarding types of service provided, speed or price of service was persuasive when it is clear on its face that voice or broadband services are not provided or that these services do not meet our service obligation standards."⁵ The Bureau then cited a challenge filed by Choctaw Telephone against Total Highspeed and ruled that it would grant the challenge based upon a screenshot from Total Highspeed's website "clearly show[ing] that Total Highspeed does not provide broadband meeting the [FCC's] price requirement."⁶

Although there is no similar challenge process with A-CAM II, the Representatives observed that the FCC would be following precedent by finding that the broadband service provided by Total Highspeed does not meet the price obligation standards for broadband. The Miller Representatives asked for the FCC to immediately remove the provider from being considered an unsubsidized competitor for the purpose of A-CAM II and issue a revised A-CAM II offer to Miller.

² The Miller Representatives provided the attached map showing the two census blocks in yellow as being the only blocks in Miller's study area where the fixed wireless provider did not report offering 500 Mbps download/500 Mbps upload on its Form 477.

³ As shown in the attachment, the 8 Mbps download tier, called the "Super" tier has a "base speed of 4 Mbps" but indicates that "many customers will receive 8 Mbps." Accordingly, it is possible that the highest speed offered by the fixed wireless provider in Miller may be only 4 Mbps download.

⁴ See, *Order*, WC Docket No. 10-90, DA 16-842 at para. 41 (rel. July 25, 2016) ("*Challenge Order*").

⁵ *Id.* (emphasis supplied).

⁶ *Id.*

The Miller Representatives then observed that similar actions should be taken for the purposes of competitive overlap if Miller were to remain on legacy support. The Representatives discussed the critical need for a robust challenge process prior to any determination that a rate-of-return carrier is subject to a reverse auction mechanism in the newly adopted 100 percent, or slightly less than 100 percent, competitive overlap policy. As has been demonstrated by the evidence presented in the meeting, Form 477 data can contain serious flaws, even though the filer has certified to its accuracy. The FCC should not make determinations regarding vital universal service funding without a thorough vetting process to determine that the provider does indeed offer voice and broadband at the required speed to almost all locations in the areas where competitive overlap has been determined and that the provider meets all of the FCC's service obligation standards, especially price obligations.⁷

The Representatives further observed how loans from one government agency, the Rural Utilities Service, were obtained by Miller based upon the universal service support overseen by another agency, the FCC, which were then used to deploy fiber-to-the-home broadband to the residents of the small and rural Miller community. From quantile regression to the budget control mechanism and now the 100 percent overlap policy, "reforms" to the universal service mechanisms have made it extremely difficult for Miller and other rural telecom providers to make these kinds of investments. Subjecting the Company and other rate-of-return carriers to a reverse auction process so that it must bid against other providers that have not invested in the communities for the universal service support that is the Company's lifeblood is irrational and contrary to the universal service policies established by Congress and the Commission.

In conclusion, the Representatives urged the FCC to not rely solely on flawed Form 477 data when making critical decisions regarding vital universal service funding in either the context of A-CAM II or legacy support. Instead, the FCC should always ensure that a robust challenge process is undertaken.

Please direct any questions regarding the filing to the undersigned.

Sincerely,



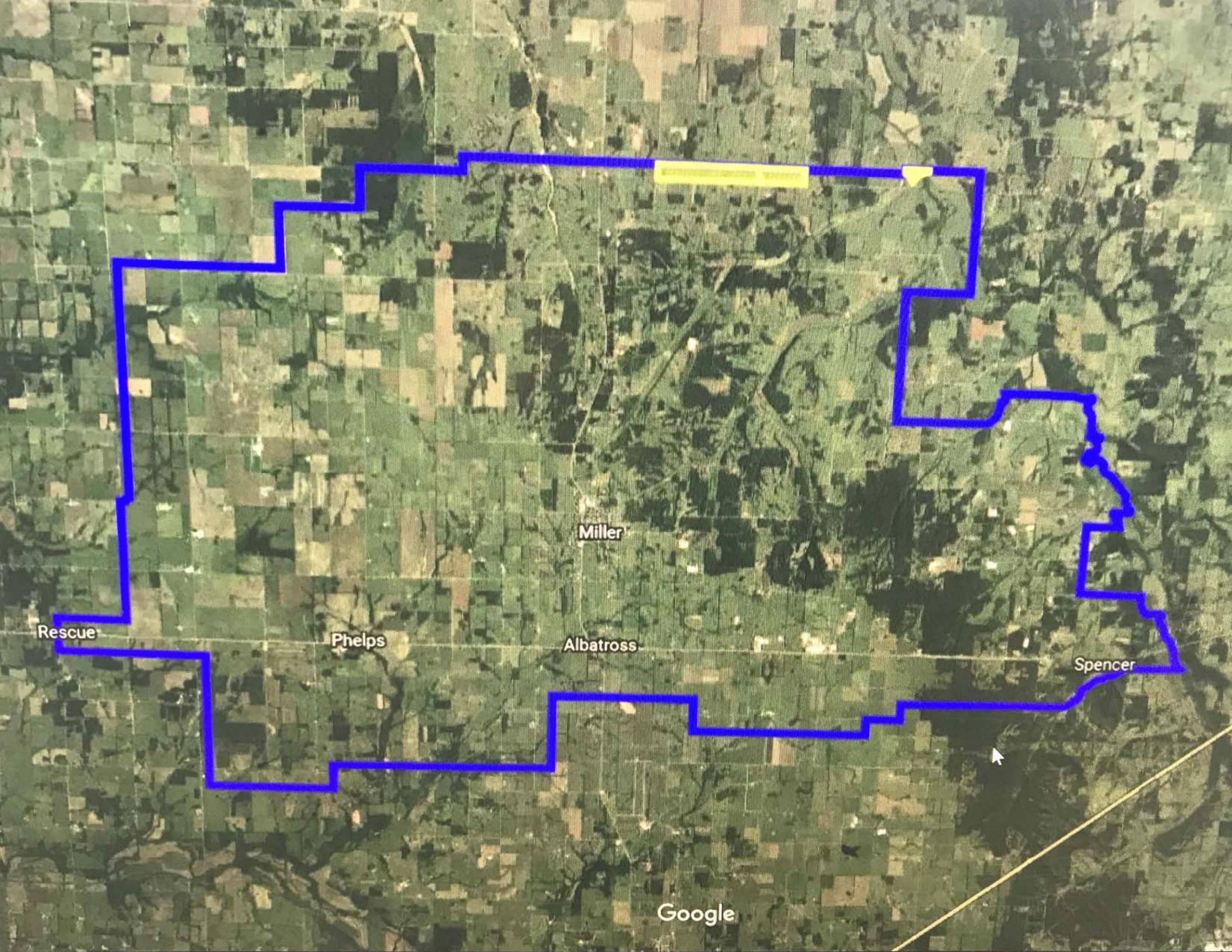
John Kuykendall

JSI Vice President

301-459-7590, jkuykendall@jsitel.com

cc: Preston Wise
Attachment

⁷ The Miller Representatives noted that in a recent Senate hearing, Chairman Pai announced that his office plans to move forward with developing a new methodology to collect accurate broadband data in an updated Form 477 or a new data collection and that even after such changes have been made, a robust challenge process still will be necessary given the possibility of erroneous data being submitted.



Yellow label on the top boundary line.

Rescue

Phelps

Albatross

Miller

Spencer

Google

Total Highspeed Internet Solutions

Fixed Wireless Offerings Per Website & Conversations with Sales Rep

Res & Small Bus - Internet Plans	Speeds	Pricing	FCC Broadband Benchmark Rates
Email	2 Mbps/.1922-.410 Mpsp	\$50.00	Out of range
Elite	3 Mbps/.256-.615 Mbps	\$75.00	Out of range
Deluxe	4 Mbps/.352-.820 Mbps	\$100.00	\$70.76
Executive	6 Mbps/.512-1.229 Mbps	\$150.00	\$74.32
Super	8 Mbps/1.408-1.639 Mbps	\$200.00	\$74.57
Home Office Plan	6 Mbps /3 Mbps	\$200.00	\$75.60

Additional Information

No Data Caps

One-time Install Fee \$99.00

Router - one time set-up fee of \$25.00
w \$7.50 / month charge or can use
your own router

Voice service additional \$39.95
w/ taxes - total \$53.90
Voice is offered by a separate provider

Residential High Speed Rural Internet

[Sign up online!](#)

Prices are for monthly residential service. For business service pricing, please [contact us](#) or [sign up online!](#)

Many times you receive (but are not guaranteed) much faster speeds than what you pay for. To see if service is available in your area, please check our [coverage map](#), or call our office at (417) 851-1107.

All of our services are unlimited; **there are no download caps!**

Wireless Access Point (optional)

Total Highspeed will provide a Wireless Access Point, sometimes known as a Router, for just \$7.50/month. Don't worry: if there is ever a problem with your device, we will take care of it.

Installation fee

A one time installation fee of \$99.00 applies to all plans. Installation includes everything needed to start surfing the internet! The Total Highspeed Wireless Access Point is available with an additional install fee of \$25.00. All plans are "up to" speeds.

Email

\$50.00/month

2Mbps download. (Base speed is 512kbps, many customers will receive 2Mbps.)

This plan is for e-mail and basic web browsing.

Elite

\$75.00/month

3Mbps download. (Base speed is 768kbps, many customers will receive 3Mbps.)

This plan is great for social media gaming.

Deluxe

\$100.00/month**4Mbps** download. (Base speed is 1Mbps, many customers will receive 4Mbps.)

This plan is for downloading movies or data transfers.

Executive**\$150.00/month****6Mbps** download. (Base speed is 1.5Mbps, many customers will receive 6Mbps.)

This plan is great for online gaming.

Super**\$200.00/month****8Mbps** download. (Base speed is 4Mbps, many customers will receive 8Mbps.)

This plan is great for dual streaming or streaming while online.

Home Office Plan**\$200.00/month****6Mbps** download with 3Mbps upload.

This plan is great for working from home or online gaming with multiple devices.

Residential Internet Servic...

