



July 18, 2019

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

**Re: Notification of *Ex Parte* Communication;  
WC Docket Nos. 19-126, 10-90**

Dear Ms. Dortch:

On July 17, 2019, I met with Randy Clarke, Acting Legal Advisor for Wireline and Public Safety to Commissioner Starks to discuss the possibility of the Commission seeking comment in its Notice of Proposed Rulemaking (NPRM) in the above-captioned proceedings on taking consumer preferences into greater account in the competitive bidding process in the upcoming Rural Development Opportunity Fund (RDOF) auction, in addition to the post-auction subscription approach described in the draft NPRM.

As highlighted in my meeting with Mr. Clarke, the NPRM addresses consumer preference in one important way. Should a winning bidder fail to attract consumers, the Commission will withhold funds under a formula that uses the Commission's cost model assumption that a universal service provider should be able to gain a 70% market share. Yet, as proposed in the NPRM, the Commission will still distribute significant universal service funding to companies that attract few or no customers. Under the Commission's proposal, a winning bidder in the RDOF auction that attracts only 1% of the households and businesses would still receive over 50% of its RDOF funding.

While withholding funds in certain situations is prudent and fiscally responsible, it does not assist rural communities that reject the services in a timely fashion. The proposed approach I discussed with Mr. Clarke would not disturb the current FCC proposal, would not affect the budget, and it would give rural communities the opportunity to express their preferences at the outset. More specifically, under the proposal I discussed with Mr. Clarke:

- Prior to the RDOF auction short-form deadline, participants in the RDOF auction would demonstrate consumer interest by submitting a list of households and small businesses (i.e., locations eligible for RDOF subsidies) by census block that have signed an

Expression of Interest (EOI) in subscribing to the bidder's service. These EOIs would need to be afforded *per se* confidential treatment by the Commission.

- During the auction, bidders would have the opportunity to submit package bids comprised of census blocks or census block groups (whichever geographic unit is used in the RDOF auction), which would constitute a Consumer Preference Area (CPA).
- If the number of EOIs obtained by an RDOF auction bidder cover more than 50% of the eligible locations in a CPA and no other RDOF auction bidder obtains EOIs from more than 50% of the eligible locations in a CPA, then the bidder that obtains EOIs from more than 50% of the eligible locations in a CPA would become the winning bidder at the clearing round for the CPA and receive the clearing round price.
- In the event of overlapping census blocks or census block groups (whichever geographic unit is used in the RDOF auction) involving competing bids where multiple carriers obtain enough EOIs to equal more than 50% of the locations in a CPA, the bidder with the higher percentage of EOIs in any given census block or census block group would win that area and receive the clearing round price.

Please do not hesitate to contact me with any questions regarding this matter.

Respectfully submitted,

/s/

Jonathan Chambers  
Partner

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