

July 26, 2017

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

Re: *Mobility Fund Phase II Data Collection and Challenge Process*  
*WT Docket No. 10-208; WC Docket No. 10-90*

Dear Ms. Dortch:

The Commission recently published a draft order in the Mobility Fund Phase II (“MF-II”) proceeding for consideration at its August 3, 2017 Open Meeting.<sup>1</sup> ATN International Inc. (“ATN”) and Buffalo-Lake Erie Wireless Systems, LLC (“Blue Wireless”) urge the Commission, if it conducts an additional data collection, to ensure that it identifies areas that truly are unserved by 4G LTE service. ATN and Blue Wireless also urge the Commission to avoid unnecessary further proceedings that only will serve to needlessly delay the MF-II auction.

**I. Any Collection of Coverage Data for MF-II Must Identify Truly Unserved Areas.**

If, consistent with the Draft Order, the Commission conducts a “new, one-time data collection of 4G LTE coverage maps” for purposes of MF-II,<sup>2</sup> ATN and Blue Wireless urge the Commission to ensure that it identifies only areas as eligible that truly lack 4G LTE coverage today. In order to do so, the Commission should not increase the 5 Mbps download threshold for identifying eligible areas, and should adopt reasonable parameters to identify eligible areas that are representative of the types of networks that will be constructed with Mobility Fund Phase II support, such as the 70 percent cell edge probability and 30 percent cell loading factor in the

---

<sup>1</sup> *Connect America Fund; Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order (draft), FCC-CIRC1708-02 (rel. July 13, 2017) (“Draft Order”).

<sup>2</sup> *Id.* at ¶ 10.

Marlene H. Dortch, Secretary

July 26, 2017

Page 2

Draft Order, or an even lower loading factor consistent with network loading in the extremely rural areas targeted for Mobility Fund Phase II support.<sup>3</sup>

When it ordered the creation of MF-II in 2011, the Commission intended to ensure that it was “targeted to areas that require public funding to receive the benefits of mobility.”<sup>4</sup> More recently, the Commission stated that the purpose of MF-II is to “advance the deployment of 4G LTE service to areas that are so costly that the private sector has not yet deployed there.”<sup>5</sup> These goals are particularly important given an annual budget of \$453 million, or \$4.53 billion over the ten-year term of support.<sup>6</sup> Given that it is unclear whether this budget is sufficient even to ensure service to those areas that lack it today,<sup>7</sup> it is critical that the data collection does not identify as “unserved” areas where 4G LTE service actually is available.

As a result, the Draft Order’s analysis correctly rejects calls to increase the level of coverage in a data collection for 4G LTE service from 5 Mbps to 10 Mbps. The Draft Order accurately reflects the evidence in the record showing that a higher standard “would not reflect the typical consumer experience in urban and rural areas and would direct our limited funds to areas that are already being served at speeds that are reasonably comparable to what is available in urban areas.”<sup>8</sup>

Similarly, the Draft Order correctly concludes that a data collection should use a realistic cell edge probability and loading factor.<sup>9</sup> Based on the experience of ATN and Blue Wireless in planning and building mobile networks, particularly in rural areas, a propagation map that predicts a 90 percent probability of 5 Mbps at the cell edge would provide much higher performance closer to the tower, significantly “increase[ing] the likelihood that MF-II funds would be directed to areas that already meet the MF-II performance requirement of a 10 Mbps

---

<sup>3</sup> See *id.* at ¶¶ 28, 34, 36.

<sup>4</sup> *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17773 ¶ 298 (2011) (“*Transformation Order*”), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10<sup>th</sup> Cir. 2014).

<sup>5</sup> *Connect America Fund; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2154 ¶ 2 (2017) (“*Mobility Fund Order*”).

<sup>6</sup> *Id.* at 2160 ¶ 23.

<sup>7</sup> In adopting this budget, the Commission itself recognized that “the currently unserved areas are likely the most expensive areas in the country to serve” but concluded, based on a desire not to increase burdens on contributors, that this budget “should make meaningful progress in eliminating the lingering coverage gaps.” *Id.* at 2162 ¶ 25.

<sup>8</sup> Draft Order at ¶ 16.

<sup>9</sup> *Id.* at ¶¶ 28, 34.

Marlene H. Dortch, Secretary

July 26, 2017

Page 3

median download speed.”<sup>10</sup> The Draft Order’s proposed parameters of 70 percent probability of 5 Mbps service at a 30 percent loading factor is much more likely to predict the areas where MF-II support is needed to ensure service that is reasonably comparable with that available in urban areas. ATN and Blue Wireless concur that a 30 percent loading factor is more in line with actual experience in rural areas than 50 percent.

## **II. The Commission and Staff Should Minimize Further Proceedings and Expedite the MF-II Auction**

As ATN and Blue Wireless repeatedly have observed, and the Commission itself has recognized, it is vitally important for the Commission to transition legacy support to MF-II as quickly as possible. The legacy system is distributing over \$48 million per month in support that “does not efficiently serve the nation.”<sup>11</sup> Every day that the Commission further delays the implementation of MF-II, millions of rural Americans continue to be denied the public safety and economic benefits of new mobile services that MF-II will bring.

As a result, ATN and Blue Wireless noted with concern the extent of further proceedings that the Draft Order seems to contemplate. The Draft Order appears to call for public notices seeking comment on: (1) how to formulate a valid challenge;<sup>12</sup> (2) how far apart speed tests in the challenge process should be;<sup>13</sup> and (3) how data on 4G LTE coverage will be collected.<sup>14</sup> Of course, the Commission or the Bureaus also will need to issue orders or public notices deciding these issues, and the Draft Order appears to contemplate at least two additional decisional documents, on (1) how to conduct speed tests in the challenge process<sup>15</sup> and (2) how to formulate challenge responses.<sup>16</sup>

The Commission has sought detailed comment on how to conduct the MF-II auction on at least three prior occasions.<sup>17</sup> The MF-II auction is four years overdue. Further comments should be minimized and, to the extent needed, expedited. Further comment is unlikely to improve the record on any of these issues. More process will only introduce more delay, further undermining

---

<sup>10</sup> *Id.* at ¶ 36.

<sup>11</sup> *Transformation Order*, 29 FCC Rcd at 17772 ¶ 296.

<sup>12</sup> Draft Order at ¶ 33.

<sup>13</sup> *Id.* at ¶ 50.

<sup>14</sup> *Id.* at ¶ 40.

<sup>15</sup> *Id.* at ¶ 51.

<sup>16</sup> *Id.* at ¶ 61.

<sup>17</sup> *Transformation Order*, 29 FCC Rcd at 18-69-85 ¶ 1121-88; *Connect America Fund, et al.*, 29 FCC Rcd 7051 (2014); *Mobility Fund Order*, 32 FCC Rcd at 2235-39 ¶¶ 226-247.

Marlene H. Dortch, Secretary

July 26, 2017

Page 4

the public interest benefits MF-II is designed to achieve. To the extent that targeted additional comment is needed, it should be sought in this item to minimize delay.

As a result, the Draft Order should be modified to eliminate unnecessary additional process and expedite the start date of the MF-II auction. The Bureaus should not be required to seek additional comment, given that these issues all have been thoroughly briefed. To the extent that additional comment is found to be needed, the Commission should direct that there should be no more than one more public notice seeking comment on any issues related to MF-II and no more than one more decisional document resolving those issues. The Commission also should impose a reasonable but prompt deadline for completion of these actions that is consistent with the Commission's stated goal of proceeding with the auction in early 2018.

Sincerely,

/s/

L. Charles Keller

*Counsel to ATN International and Buffalo-Lake Erie Wireless*

cc: Jay Schwarz  
Rachael Bender  
Kristine Fargotstein  
Claude Aiken  
Amy Bender  
Chelsea Fallon  
Michael Janson  
Kirk Burgee  
Thom Parisi  
Paroma Sanyal  
Charles Eberle  
Margaret Wiener