



July 26, 2017

Via ECFS

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

RE: NOTICE OF EX PARTE
WT Docket No. 10-208: *Universal Service Reform – Mobility Fund*
WC Docket No. 10-90: *Connect America Fund*

Dear Ms. Dortch,

The undersigned RWA Counsel have reviewed the draft Mobility Fund Phase II (“MFII”) item¹ scheduled to be considered at the August 3, 2017 Open Meeting² with great interest. The undersigned participated in separate conference calls on July 24, 2017 with: (1) Daudeline Meme, Wireless Legal Advisor to Commissioner Clyburn, and Jeremy Greenberg, Law Clerk to Commissioner Clyburn; and (2) Chelsea Fallon, Rural Broadband Incentive Auction Task Force, and Paroma Sanyal, Wireless Telecommunications Bureau. On July 25, 2017, the undersigned participated in a conference call with Amy Bender, Wireline Legal Advisor to Commissioner O’Rielly. On July 26, 2017, the undersigned participated in a conference call with Chairman Pai, Jay Schwarz, Wireline Advisor to Chairman Pai, and Rachael Bender, Wireless Advisor to Chairman Pai.

RWA is disappointed that the Commission has failed to include a 1 Mbps upload threshold to determine MFII support-eligible areas. Upload speeds are crucial to the end user’s experience – particularly real-time data exchanges like those required for the distance learning and telemedicine applications necessary to ensure that those living in rural America are not left behind.

Further, RWA is concerned that the Commission’s draft MFII challenge process plan places onerous burdens on small rural carriers. An arduous “proof of lack of coverage” data submission requirement within a too-short 60-day challenge window and restrictions on challenger eligibility would limit the ability of interested parties to submit valid challenges for the sake of expediency, and further skew the marketplace to the benefit of large national carriers. If rural carriers do not

¹ [Draft Order on Reconsideration and Second Report and Order](#), WC Docket No. 10-90, WT Docket No. 10-208 (last accessed July 23, 2017) (“*Draft Item*”).

² Press Release, [FCC Announces Tentative Agenda For August Open Meeting](#) (July 13, 2017).

have a *legitimate* opportunity (considering rural carriers' limited financial and personnel resources and difficult terrain/weather) to challenge areas with overstated coverage, those areas will not be eligible for MFII support and coverage in such areas will decline for lack of funds. The Commission is planning to adopt a 70 percent cell edge probability standard rather than the proposed 90 percent cell edge probability standard for the one-time data collection.³ This decision will expand the area considered "covered" when the Commission creates the initial eligible areas map, which means that *more* area will be eligible for challenge than the CTIA plan originally contemplated. Because of this, and because challengers may be expected to conduct drive/app testing during winter (or otherwise inclement) weather, RWA urges that the Commission extend the 60-day challenge window to 120 days.⁴

In addition, RWA opposes the Commission's proposed requirement that challengers must purchase "handsets specified by each unsubsidized service provider with coverage in the challenged area" and "an appropriate service plan from each unsubsidized service provider in the challenged area."⁵ The *Draft Item* further notes that an "appropriate plan" is one that "would allow for speed tests of full network performance, e.g., an unlimited high-speed data plan."⁶ Such a requirement adds yet another costly barrier for small rural carriers seeking to mount a successful challenge. RWA instead urges the Commission to require those carriers claiming to provide unsubsidized service at the requisite level to provide challengers with test phones and unlimited data access. Unlimited data is necessary because carriers begin to throttle download speeds when certain levels of data usage are exceeded. Given the 70 percent cell edge probability standard being adopted, the resulting larger footprint that needs to be measured, and the time and distance needed to take these measurements, RWA anticipates a large volume of data usage. In the alternative, RWA requests that challengers be able to purchase the challenged carrier's unlimited data plans at the carriers' actual cost.

Further, RWA is troubled that the Commission has declined (despite repeated requests from RWA and other parties) to deal with a complicated CDMA/GSM incompatibility issue that could leave *half* of all mobile customers (not just mobile customers of small and rural carriers) in some areas without voice service – including access to 911. This lack of action and potential loss of service unnecessarily endangers public safety. The draft item notes that the "Commission's gradual phase down of legacy support will provide consumers and carriers with time to complete the transition to newer technologies."⁷ While RWA agrees that ubiquitous VoLTE deployment

³ *Draft Item* at ¶ 36.

⁴ [Reply Comments of the Rural Wireless Association, Inc.](#), WC Docket No. 10-90; WT Docket No. 10-208 (May 11, 2017) (stating that requiring rural carriers to conduct drive- and app-tests in just 60 days would be an "arduous and tremendously costly – if not impossible – task"); [Comments of the Competitive Carriers Association](#), WC Docket No. 10-90; WT Docket No. 10-208 (Apr. 26, 2017) (stating "If the Commission places the burden on a challenging carrier to submit actual coverage analysis, it must provide at least a 120-day period to obtain, sort, and analyze [the] data...").

⁵ *Draft Item* at ¶ 49.

⁶ *Draft Item* at ¶ 49, n. 137.

⁷ *Draft Item* at ¶ 23.

will solve this issue, RWA believes that the Commission's optimism that VoLTE will be ubiquitously deployed throughout rural America by the end of the phase down period is misplaced. RWA again urges the Commission to address the likely loss of voice service in a limited number of areas. Even a "preservation of service" commitment to review waiver requests on a case-by-case basis would be preferable to the Commission's inaction in the current draft.

Discussions with RWA carrier members have prompted additional questions regarding the provision of voice service. MFII recipients are required to offer voice service.⁸ While the Commission has not specified how such service must be offered (*e.g.* via 2G/3G networks or VoLTE), the provision of voice service will not be an easy lift considering that the largest carriers will, in the not-so-distant future, power down their legacy 2G/3G networks and move solely to VoLTE.⁹ Most rural carriers do not yet have the capability to provide VoLTE – a capability that they need in order to be a party to VoLTE roaming agreements. Further, RWA knows of no existing commercial VoLTE roaming agreements between a Tier 1 and Tier 3 carrier, and has been made aware of reluctance on the part of large carriers to begin such negotiations. RWA urges the Commission to consider these forthcoming technological issues and undertake the roaming proceeding to which it has previously committed¹⁰ without delay.

While not discussed in the draft item, disaggregation remains top of mind for RWA's carrier members. RWA has noted this issue's importance,¹¹ but the Commission has not sought input and did not discuss the issue in-depth in the *February Order* – stating only that CETC legacy support would be disaggregated "as part of the pre-auction process" using a "terrain factor."¹² As the Commission is well-aware, legacy support is provided to a CETC's entire study area (SAC), with no attribution to particular sub-areas within the SAC. RWA urges the Commission to provide additional information regarding its proposed disaggregation methodology.

⁸ *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) (stating "We require recipients of MF-II support to offer voice service") (*"February Order"*).

⁹ [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) (citing [Verizon CDMA Network Shutdown is Set to Happen by Dec. 31, 2019](#), RCR Wireless News (July 14, 2016); and [T-Mobile IoT Plans Target AT&T 2G Shut Down](#), RCR Wireless News (September 14, 2016) (stating that T-Mobile plans to maintain its 2G GSM network through 2020)).

¹⁰ [Report and Order on Remand, Declaratory Ruling, and Order](#), *Protecting and Promoting the Open Internet*, GN Docket No. 14-28 at ¶ 526 (rel. Mar. 12, 2015) (committing "to commence in the near term a separate proceeding to revisit the data roaming obligations of [mobile broadband internet access service] providers").

¹¹ [Letter](#) from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., to Ms. Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, WC Docket No. 10-90 (Feb. 14, 2017) (expressing concern regarding how support disaggregation would be implemented and urging the Commission to seek comment on the issue).

¹² *February Order* at ¶ 71.

Finally, RWA urges the Commission to provide parties with additional information as to specific MFII timing – including its plans for the Connect America Fund Phase II (CAFII) Auction. Given that the Commission has released a draft CAFII Auction Public Notice, it appears as though the CAFII Auction will occur ahead of the MFII Auction. Specific timing information would be helpful for small rural carriers as they engage in long-term financial and operations planning.

Pursuant to Section 1.1206 of the FCC's Rules,¹³ this *ex parte* is being filed electronically with the Office of the Secretary.

Respectfully submitted,

/s/ Caressa D. Bennet

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¹³ 47 C.F.R. § 1.1206.