



State of Illinois

Illinois Commerce Commission

Brien J. Sheahan
Chairman

160 North LaSalle Street
Chicago, Illinois 60601

July 30, 2018

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: In re Connect America Fund WC Docket No. 10-90; In re Universal Service Reform –
Mobility Fund, WT Docket No. 10-208

Dear Ms. Dortch,

The Illinois Commerce Commission (ICC) is concerned that, despite the sizable net contributions to universal service funds paid by Illinois telecommunications customers year after year,¹ communities in Illinois will be left behind in the Commission's efforts to advance deployment of 4G LTE service to areas that are too costly for the private sector to serve. While Chairman Pai expressed his hope that process created by the Commission to identify unserved areas would produce an accurate map of unserved areas eligible for Mobility Fund II subsidies,² the process appears destined to deny Illinois a fair share, or indeed any share, of such funding, based on service shortcomings, of the \$4.53 billion allocated for funding over the next ten years.

A cursory examination of the May 22, 2018 Mobility Fund II Initial Eligible Areas Map reveals that there are almost no areas in Illinois designated as "Initial Eligible Areas," and thus eligible for Mobility Fund II funding. This result paints a materially inaccurate picture of the actual state of coverage in Illinois. While the ICC recognizes that the Commission cannot rely upon anecdotal evidence, it should not proceed based upon results that, even in the absence of systematic information, are unquestionably unrealistic.

The Commission's attempt to find 4G LTE information tailored to its Mobility Fund II mechanism is commendable. However, the ICC has misgivings regarding the Commission's choice to rely on a new, one-time collection of information. Unlike the Form 477 information

¹ In 2016, Illinois end users contributed approximately \$355 million to universal service support mechanisms and was a net contributor, when accounting for Universal Service support payments to Illinois providers, of approximately \$109 million. Universal Service Monitoring Report 2017, Table 1.9.

² Statement of Chairman Ajit Pai, Re: Connect America Fund, WC Docket No. 10-90; Universal Service Reform – Mobility Fund, WT Docket No. 10-208.

that is well understood by stakeholders and which has been collected over an extended period, the information the Commission elected to use has not been subject to review and vetting. The map that this information has produced, showing almost no unserved, eligible areas in Illinois, does not accurately reflect the actual state of 4G LTE coverage in Illinois.

The Commission's process for correcting inaccurate information is also problematic. The Commission limits challengers to service providers and government entities.³ However, the only incentive that service providers will have in challenging information will be the prospect that revisions to the information will allow them to bid for Mobility Fund II support in such areas. It is clear that the potential new business to be obtained by opening an additional area to funding may not be sufficient to compensate a provider for the time, effort, and cost of mounting a challenge, particularly in cases where the provider may be competing for funding with providers that do not incur the cost of mounting challenges. Additionally, it is not clear that providers have any incentive to act other than in their own interests. In particular, there is no incentive whatever for providers to act on behalf of end users, the intended beneficiaries of Mobility Fund II support.

As a result, the burden of mounting challenges on behalf of end users falls, for practical purposes, on governmental entities, which are the only entities with an incentive to mount challenges on behalf of end users. The Commission's process, however, is poorly suited to governmental challenge. In particular, the Commission requires challengers to provide "detailed proof of lack of unsubsidized, qualified 4G LTE coverage instead of 'anecdotal evidence.'" ⁴ In requiring actual speed test evidence, the Commission notes, "we expect small carriers are likely to already own drive test equipment."⁵ The Commission does not, however, address the ability of states to perform such tests. Additionally, the Commission's test process requires testers to purchase equipment and subscribe to unsubsidized service provider service plans in challenged areas.⁶

This requirement is an entirely inappropriate one to impose upon State Commissions, and places them in an invidious position. Without statutory authority and a legislative appropriation, the ICC is not in a position to purchase service plans, buy equipment, and otherwise incur the expense of systematically studying and challenging submitted data. The ICC does not own drive test equipment. Further, even if the ICC were to seek such authority through the Illinois General Assembly, there is insufficient time pursuant to the Commission process to do so.

The Commission imposes upon challengers the burden of proof with respect to validating the information relied upon.⁷ The Commission adopts this approach, in part, to expedite disbursement of support.⁸ It is clear, however - particularly given the results of the Commission's information collection - that this process creates a substantial risk that funding

³ Connect America Fund; Universal Service Reform – Mobility Fund II, Order on Reconsideration and Second Report and Order, FCC 17-102, Released August 4, 2017, at paragraph 42 (cited below as MF II Order on Reconsideration).

⁴ Id., at paragraph 48.

⁵ Id.

⁶ Id. at paragraph 50.

⁷ Id. at paragraph 32.

⁸ Id. at paragraph 63.

will be improperly allocated. The long-run nature of the Commission funding process means that initial errors will be long-lived and difficult, if not impossible, to correct.

The Commission should, itself, verify the accuracy of the information it has collected and correct any errors in the information. As the entity distributing funding provided by Illinois telecommunications consumers, it is incumbent on the Commission to ensure its funding is based upon accurate information, rather than relying on entities that are unlikely or unable to validate and challenge such information to do.

Thank you for your consideration of this matter.

Sincerely,



Brien Sheahan, Chairman

Illinois Commerce Commission

cc: Illinois Congressional Delegation