Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
ETC Annual Reports and Certifications	)	WC Docket No. 14-58
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259
	)	

VERIZON PETITION FOR RECONSIDERATION[1]

In the *Competitive Bidding Order*, the Commission took important steps towards finalizing rules for the Connect America Fund (CAF) auction, which will bring broadband service to unserved locations throughout the country.[2] In order to ensure that the auction succeeds in maximizing the number of locations served and in attracting a broad range of bidders in all eligible areas, the Commission should reconsider the *Competitive Bidding Order* in limited respects. Specifically, the Commission should (1) rank bids based on dollar per location, rather than using the ratio of the bid to the reserve price; (2) modify the usage requirement for the "above baseline" and "gigabit" performance tiers; and (3) modify the location flexibility rules.

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[1] The Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

[2] *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) ("*Competitive Bidding Order*").

I. The Commission Should Reconsider the "Ratio of Bid to Reserve" Ranking Method

In the *Competitive Bidding* Order, the Commission decided to rank bids based on the ratio of the bid to the reserve price.[3] The Commission should reconsider this decision and instead rank bids based on the dollar per location.

The "dollar per location" ranking method maximizes the number of locations that can be served with the limited auction budget of $215 million per year, i.e., it maximizes the "bang for the buck," because it prioritizes the lowest per-location bids, awarding bids from the lowest per-location amount to the next-highest per-location amount until the auction budget is exhausted.

Conversely, the "ratio of bid to reserve" ranking method adopted in the *Competitive Bidding Order* will result in many fewer locations served for the same amount of universal service funding. With the "ratio of bid to reserve" ranking method, a higher per-location bid can be selected over a lower per-location bid.[4] In fact, a winning bid could be several times higher than a losing bid, e.g., a $45 per location bid could be chosen over a $15 per-location bid.[5] For every location funded at the higher per-location bid, several locations that could have been served at the lower bid amount will remain unserved, e.g., a single location would be funded at $45 rather than three locations at $15 per location.

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[3] *Competitive Bidding Order*, ¶ 85.

[4] For example, assume that Bidder A bids $45 per location for an area in which the reserve price is $90, while Bidder B bids $15 per location for an area in which the reserve price is $20. Even though Bidder A's bid is three times higher than Bidder B's bid on a per-location basis, Bidder A would be selected first because Bidder A's bid-to-reserve ratio is 0.5 while Bidder B's bid-to-reserve ratio is 0.75.

[5] In particular, a bid for extremely high cost locations could be selected over a bid for high cost locations even when the bid for the extremely high locations is several times higher. The reserve price for "extremely high cost locations" could be at least $146.10 per location per month ($146.10 is the minimum CAM-calculated support amount for extremely high cost census blocks), while the reserve price for high cost locations averages approximately $33 per location per month.

Moreover, use of the "ratio of bid to reserve" ranking method will have a disproportionate impact on the states in which the price cap LEC declined the CAF II offer ("declined states"). As Verizon has previously explained, use of the "ratio of bid to reserve" method increases the probability that locations in the declined states will be left unserved after the auction, even though those locations are, on average, less costly to serve.[6] Indeed, the Commission sought to offset the effect of the rule by proposing other measures in the *Further Notice* to meet its universal service obligations to customers in those states.

The sole rationale for adopting the ratio of bid to reserve ranking method is that it "is more likely to ensure winning bidders across a wide range of states than selecting bids based on the dollar per location, which could result in support disproportionately flowing to those states where the cost to serve per location is, relatively speaking, lower than other states."[7] But the *Competitive Bidding Order* does not explain why spreading support to more states is an important universal service goal,[8] much less why spreading support to more states should outweigh the *Order*'s goal of maximizing the number of homes and businesses that obtain broadband within the finite auction budget.[9]

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[6] Verizon Comments, WC Docket No. 10-90, July 21, 2016, at 5-6.

[7] *Competitive Bidding Order*, ¶ 85.

[8] The Commission used a similar rationale to support its use of the same ranking method for two categories of rural broadband experiments. While "greater geographic diversity" may have been important for the experiments because it would be "informative to [the Commission's] consideration of the impact of technology transitions in different parts of the country," that objective is not relevant to a permanent universal service program such as the CAF auction. *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769, ¶ 33 (2014).

[9] *Competitive Bidding Order*, ¶ 16.

II. The Commission Should Reconsider the Unlimited Usage Requirement for the Above-Baseline and Gigabit Performance Tiers

In the *Competitive Bidding Order*, the Commission required that the "above baseline" and "gigabit" performance tiers offer unlimited usage.[10] The Commission should reconsider the unlimited usage requirement because it could discourage bidding on those tiers.

In the *USF/ICC Transformation Order*, the Commission concluded that section 254(b)(3) requires CAF recipients to "allow usage at levels comparable to residential terrestrial fixed broadband service in urban areas."[11] Consistent with that conclusion, the Commission used actual usage data to set the usage allowance for the CAF II offers, the rate of return CAF program, and the baseline tier of the CAF auction.[12] The *Competitive Bidding Order* neither explains the Commission's decision to change course and for the first time require a CAF recipient to offer unlimited usage nor demonstrates that unlimited usage is "reasonably comparable" to urban broadband offerings.

The unlimited usage requirement will further increase the cost of providing above-baseline and gigabit services in rural areas. A potential bidder would have to factor in the

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[10] *Id.*, ¶¶ 26-27.

[11] *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶¶ 91, 98 (2011) ("*USF/ICC Transformation Order*").

[12] *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 15060, ¶¶ 16, 18 (2013) (setting the usage allowance for CAF II offers at the higher of 100 gigabytes per month or the usage level of 80 percent of consumers using cable or fiber-based fixed broadband services); *Connect America Fund*, WC Docket No. 10-90, Report and Order, 30 FCC Rcd 3087, ¶ 27 (2016) (requiring rate of return carriers to offer a usage allowance that is the higher of 150 gigabytes per month or the average usage of a majority of consumers); *Competitive Bidding Order*, ¶ 25 (requiring bidders for the baseline tier to offer to offer a usage allowance that is the higher of 150 gigabytes per month or the average usage of a majority of fixed broadband customers).

additional investments and operating expense necessary to accommodate a small number of customers whose very high usage would be responsible for a disproportionate share of demand. Those additional costs would discourage bids for the above-baseline or gigabit tiers. Even if providers elected to submit above-baseline or gigabit bids, the additional costs would raise average bids and thus reduce the number of consumers that could be served within the available budget.

In order to encourage bidding, the Commission should, at a minimum, permit providers to address the true outliers that drive substantial costs through extremely high usage. Rather than require unlimited usage, the Commission should set the usage requirement for the above-baseline and gigabit tiers to be consistent with the usage limits for similar urban offerings. While some urban providers offer unlimited usage, the Commission's most recent urban rate survey shows many urban providers have usage limits for services of 100 megabits per second or more that range from 250 gigabytes per month to 1,000 gigabytes per month (1 terabyte per month).[13] By setting the usage requirement for the above-baseline and gigabit tiers to be consistent with urban offerings' usage limits, the Commission would provide a greater usage allowance than the baseline tier but still permit providers to address the true outliers that increase the cost of providing rural broadband service.

III. The Commission Should Modify the Location Flexibility Rules

In the *Competitive Bidding Order,* the Commission decided to apply most of the same location flexibility rules to the CAF auction as it applied to the CAF offers. In particular, the Commission permitted carriers to build to at least 95 percent of funded locations in a given state,

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[13] https://www.fcc.gov/general/urban-rate-survey-data-resources.

but required carriers electing such flexibility to return support equal to the number of unserved locations multiplied by 1.89 times the average support per location in the state.[14]

The Commission should provide significantly greater location flexibility for CAF auction participants than for CAF offer recipients. As the Commission has explained, location flexibility is necessary because there will be eligible areas in which the "real world" location count is less than the modeled location count or bidders face other challenging "facts on the ground." [15] Those challenges will have a much greater impact on CAF auction participants than on CAF offer recipients because of the Commission's decision to change the way that it counts locations for the buildout obligation. For the CAF offers, recipients are in some instances required to serve only some of the locations in a census block,[16] e.g., only 2 locations out of the 5 modeled locations in a census block. For the CAF II auction, by contrast, the Commission decided in the *Competitive Bidding Order* that winning bidders must serve all of the locations in a census block,[17] e.g., all 5 of the 5 modeled locations in a census block. Because the number of locations that recipients of the CAF II offers must serve is less than the modeled location count, there is a built-in margin of error, e.g., the carrier can still meet its buildout obligation of 2 locations even if in the real world there are only 2, 3, or 4 locations in the census block rather than the modeled location count of 5. There is no such built-in margin of error for the CAF II

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[14] *Competitive Bidding Order*, ¶ 45; 47 C.F.R. § 54.310(c)(2).

[15] *See Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 15644, ¶ 38 (2014) ("*December 2014 Connect America Order*"); *Competitive Bidding Order*, ¶ 44.

[16] *Competitive Bidding Order*, ¶ 62 ("As a result, the number of funded locations in a census block was not necessarily the same as the number of locations in the block according to the U.S. Census.")

[17] *Id.*, ¶ 65 ("We now conclude that it is preferable to require a winning bidder to serve all of the locations in a given census block, rather than some subset of those locations in a given block…")

auction because the Commission has set the buildout target at 100 percent of the modeled location count.

The requirement that providers build to at least 95 percent of modeled locations – combined with the requirement that providers return funding (subject to the penalty factor of 1.89) even if they achieve the 95 percent threshold but fall short of 100 percent – will discourage parties from bidding on any area in which the actual location count is less than the modeled location count or bidders face other challenging "facts on the ground."[18] Indeed, the *Competitive Bidding Order* anticipates that location count errors or other challenges will discourage parties from bidding on certain areas, noting that parties have the option of excluding "problematic" areas from their bids.[19]

An auction framework that causes bidders to avoid certain areas because of modeling errors or other challenging facts on the ground is at odds with the Commission's universal service obligations. Rather than discourage providers from bidding on areas in which the actual location count is less than the modeled location count, the Commission should revise the location flexibility rules in order to facilitate bidding on such areas.

The Commission should, in particular, reduce the minimum buildout threshold from 95 percent to 90 percent of modeled locations in order to increase the number of areas that attract bids despite location modeling errors or other challenging conditions. In addition, the Commission should eliminate the requirement that providers return funds if they meet the minimum threshold but fall short of 100 percent of modeled locations. This requirement might make sense for providers that meet the minimum threshold for the statewide offers, because the

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[18] *Id.*, ¶ 44.
[19] *Id.*, ¶ 47.

offer amount was based on buildout to 100 percent of modeled locations.[20] A requirement that providers return funds even if they meet the minimum threshold is not necessary for the CAF auctions, however, because the amount bid by the provider will already reflect the cost of building out to the minimum number of locations.

IV. Conclusion

Verizon supports the competitive bidding framework adopted in the *Competitive Bidding Order*. To ensure that the CAF auction achieves the Commission's universal service goals, the Commission should make the targeted changes discussed herein.

Respectfully submitted,

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[20] *December 2014 Connect America Fund Order*, ¶¶ 40-42.