

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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| In the Matter of                         | ) |                      |
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|  | ) |                      |
| Connect America Fund                     | ) | WC Docket No. 10-90  |
|  | ) |                      |
| Universal Service Reform – Mobility Fund | ) | WT Docket No. 10-208 |
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**COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION**

Competitive Carriers Association (“CCA”)<sup>1</sup> applauds the Federal Communications Commission (“FCC” or “Commission”) for moving toward implementation of Phase II of the Mobility Fund (“MF-II”). With the release of the recent Public Notice seeking comment on procedures for the MF-II challenge process and technical implementation, the Commission takes another substantial step toward expanding LTE coverage in hard-to-serve markets across the United States.<sup>2</sup>

The Commission committed to adopting a “robust, targeted challenge process that efficiently resolves disputes about areas eligible for MF-II support,”<sup>3</sup> and directed the Rural

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<sup>1</sup> CCA is the nation’s leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

<sup>2</sup> *Comment Sought on Mobility Fund Phase II Challenge Process Procedures and Technical Implementation*, Public Notice, WC Docket No. 10-90 & WT Docket No. 10-208, DA 17-1027 (rel. Oct. 18, 2017) (“*Challenge Process Public Notice*”).

<sup>3</sup> *Connect America Fund, Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd. 2152, ¶ 226 (Mar. 7, 2017) (“*MF-II*”).

Broadband Auctions Task Force, the Wireline Competition Bureau and Wireless Telecommunications Bureau to develop the “specific parameters and procedures to implement the MF-II challenge process.”<sup>4</sup> As the Commission recognized, the challenge process is an “integral part” of the MF-II program; a component that, if designed correctly, would promote the inclusion of rural and Tribal communities in today’s digital economy.<sup>5</sup>

CCA agrees that the challenge process must be efficient, and that challengers must submit data that “is reliable, accurately reflects consumer experience in the challenged area, and can be analyzed quickly and efficiently.”<sup>6</sup> To that end, CCA urges the FCC, and the staff developing the particulars of the challenge process, to be mindful of the complicated nature of the proposed challenge process and the burden that it places on challengers, especially for smaller providers. CCA makes the following comments to help ensure that the challenge process strikes a reasonable balance to avoid overly burdening small carriers.

First, CCA reiterates the enormous burden this process will place on challenging parties. As CCA has explained, challengers will incur disproportionately large labor and travel costs based on the carriers’ network footprints and the eligible map areas.<sup>7</sup> Importantly, challengers,

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*Report and Order” or “MF-II Further Notice”). See also Connect America Fund, Universal Service Reform – Mobility Fund, Order on Reconsideration and Second Report and Order, 32 FCC Rcd. 6282, ¶ 27 (Aug. 3, 2017) (“MF-II Challenge Process Order”) (“we adopt a streamlined challenge process that will efficiently resolve disputes about areas deemed presumptively ineligible for MF-II support.”).*

<sup>4</sup> *MF-II Challenge Process Order* ¶ 33; *Challenge Process Public Notice* ¶ 1.

<sup>5</sup> *MF-II Further Notice* ¶ 226.

<sup>6</sup> *Challenge Process Public Notice* ¶ 6.

<sup>7</sup> See Comments of Competitive Carriers Association at 3-4, WC Docket No. 10-90 & WT Docket No. 10-208 (filed Apr. 26, 2017); Letter from Rebecca Murphy Thompson, EVP and

especially small and regional carriers in rural areas, likely will be hard-pressed to file the required documentation within the challenge period adopted in the *MF-II Challenge Process Order*. Therefore, it may not be possible for challenging parties “to file in advance of the date to allow ample time for data processing,” as the *Challenge Process Public Notice* encourages.<sup>8</sup> CCA urges the Commission to allow challenging parties to utilize the full filing window, at least, and not to place more stringent time pressures on filers. The Commission can briefly postpone opening the reply window should it need extra time for data processing.

In addition, CCA urges the Commission to consider the expense associated with the challenge process, and whether compensation should be owed to the challenging party if it successfully demonstrates that the challenged party’s underlying data was wrong. Indeed, the challenge process would be entirely unnecessary if the service provider’s data submissions to the FCC were accurate and consistent. Given that the verification requirements for data submissions to the Commission could be overly burdensome, should the underlying data that the Commission relies on to formulate the maps be determined to be wrong, there should be some recourse available to those carriers that are forced to challenge the data through no fault of their own. The challenger bears the burden of proof to demonstrate that a carrier’s coverage is inaccurate. The least the Commission can do is to make the challenger whole for producing accurate and consistent data that helps to close the digital divide.

What’s more, the FCC notes that it will “remove any subsidized areas from the provider’s coverage map.”<sup>9</sup> Understanding the FCC’s goal to display unsubsidized areas with qualified 4G

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General Counsel, CCA, to Ms. Marlene H. Dortch, Secretary, FCC, at 4, WC Docket No. 10-90 & WT Docket No. 10-208 (filed July 27, 2017).

<sup>8</sup> *Challenge Process Public Notice* ¶ 28.

<sup>9</sup> *Id.* ¶ 4.

LTE coverage, the Commission should clarify whether subsidized providers in an area must submit data in the MF-II one-time collection. CCA applauds the FCC's most recent Public Notice detailing instructions for filing 4G LTE coverage data, including specifying which entities must file in the MF-II one-time data collection; however, the FCC should further clarify whether providers currently offering subsidized service in an area must participate.

Additionally, “[r]ecognizing that some providers may reduce the speed of data on their networks for network management purposes. . .,” the *Challenge Process Public Notice* proposes “to allow a challenged party to submit data that identify a particular device that a challenger used to conduct its speed tests as having been subjected to reduced speeds, along with the precise date and time the speed reductions were in effect on the challenger’s device.”<sup>10</sup> CCA urges the Commission to refrain from adopting this proposal. Whether a carrier engages in throttling for network management purposes should not form part of the consideration of whether an area is eligible for MF-II support. Moreover, the proposal unnecessarily creates a loophole for challenged parties to argue that the challenger’s collected data is wrong without providing the challenger an opportunity to respond. Instead, the Commission should take an aggregate approach to coverage speeds in an area, which is consistent with the goal to collect “standardized coverage data.”<sup>11</sup>

Finally, CCA understands that coverage and service results may differ based upon the operating system in use on the handset (*i.e.*, Android versus iOS). The Commission should be mindful of this as it reviews responses from challenged parties. CCA urges the Commission to here again take an aggregate approach to coverage speeds, which is fully consistent with its

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<sup>10</sup> *Id.* ¶ 14

<sup>11</sup> *Id.* ¶ 2; *MF-II Challenge Process Order* ¶ 25.

goals, and not allow challenged parties to use the differences in operating systems as a loophole to the challenger's data results.

With the right challenge process and technical implementation requirements in place, the Commission can ensure that the MF-II challenge process welcomes participation where it is needed, prevents frivolous claims, and generates accurate results that improve the targeting of support to areas that need it most. CCA urges the Commission to adopt the changes it proposes herein, which will help to lessen the burden on challenging parties while ensuring that the Commission's eligibility determinations rest on evidence that is clear, rigorous, and reliable.

Respectfully submitted,

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November 8, 2017