



December 10, 2018

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*
WC Docket No. 18-89: *Protecting Against National Security Threats to the
Communications Supply Chain Through FCC Programs*
WT Docket No. 18-197: *Applications of T-Mobile US, Inc. and Sprint Corporation,
Consolidated Applications for Consent to Transfer Control
of Licenses and Authorizations*

Dear Ms. Dortch,

On December 6, 2018, RWA representatives (listed in Attachment A) met with: (1) Rural Broadband Auctions Task Force staff (listed in Attachment B); (2) Sprint/T-Mobile Transaction Task Force staff (listed in Attachment C); (3) Wireline Competition Bureau staff (listed in Attachment D); (4) Commissioner Carr and Will Adams, Legal Advisor to Commissioner Carr; (5) Commissioner O’Rielly, Erin McGrath, Wireless Legal Advisor to Commissioner O’Rielly, and Kagen Despain, Intern to Commissioner O’Rielly; (6) Umair Javed, Legal Advisor to Commissioner Rosenworcel, and (7) Rachael Bender, Wireless Advisor to Chairman Pai, in separate meetings.

RWA representatives discussed matters related to the Commission’s Mobility Fund Phase II (“MF-II”) Challenge Process, the proposed Sprint/T-Mobile transaction, and the recently-released Public Notice¹ seeking comment on the applicability of provisions in the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (“2019 NDAA”) to the Commission’s *Protecting Against National Security Threats to the Communications Supply Chain* rulemaking.

¹ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, [Public Notice](#), WC Docket No. 18-89, DA 18-1099 (rel. Oct. 26, 2018) (“Public Notice”).

MF-II Challenge Process

RWA members provided meeting participants with an update on their MF-II Challenge Process efforts. Several RWA members completed MF-II Challenge Process speed tests and submitted their results ahead of the November 26, 2018 deadline. RWA's concerns about overstated coverage by Verizon and T-Mobile have been borne out by challenge process data. The vast majority of test points showed non-qualifying 4G LTE coverage – or no 4G LTE coverage at all.

RWA member Panhandle Telecommunication Systems, Inc. drove 124,421 miles (a distance nearly equivalent to driving 5 times around the Earth) during the challenge process, and took a total of 3,605,517 speed tests. Of the total test points collected, 3,232,612 (89.7%) tested below 5 Mbps download speed or did not register 4G LTE service at all. Panhandle's Verizon speed test data collection covered a total of 2,060,883,573 test points. Of the total test points collected, 1,728,794 (83.9%) tested below 5 Mbps download speed or did not register 4G LTE service at all on Verizon-designated handsets.

Sagebrush Cellular, Inc. collected 2,684,667 test points, and found that 99.09% of those test points either tested below 5 Mbps download speed or did not register 4G LTE service at all. Pine Belt Cellular, Inc. collected 1,485,324 test points, and found that 82.9% of those test points either tested below 5 Mbps download speed or did not register 4G LTE service at all.

The record is replete with filings, by RWA and others, detailing concerns about overstated Verizon coverage.² In addition, there are also concerns about overstated coverage by T-Mobile. RWA members discovered through the challenge process that – in many areas – T-Mobile projected its *future* 4G LTE coverage and reported *that* coverage to the Commission ahead of or by the January 4, 2018 deadline instead of the coverage it had in place by the January 4, 2018 deadline. RWA members noted that the coverage data submitted by the January 4, 2018 deadline had to be certified as accurate under penalty of perjury. As RWA members took speed tests – they witnessed coverage go up where there had previously been none the month (or even week) before. Also, in many areas where T-Mobile reported coverage, cell sites supposed to be providing that purported coverage had not been even placed into operation. Further, in many of the areas where T-Mobile has claimed coverage – the carrier is using satellite backhaul. In these locations, backhaul speed and latency limitations make hitting speeds of 5 Mbps down impossible – regardless of other network inputs.

² See, e.g., *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Ex Parte Letter from Radio Frequency Engineering Firm Coalition](#) to Ms. Marlene H. Dortch, Secretary, FCC (July 5, 2018); *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Ex Parte Letter from Radio Frequency Engineering Firm Coalition](#) to Ms. Marlene H. Dortch, Secretary, FCC (Aug. 3, 2018); *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Ex Parte Letter](#) from Shawn Hanson, CEO, Panhandle Telecommunication Systems, Inc. to Ajit Pai, Chairman, FCC (Sept. 7, 2018); *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Informal Request of Smith Bagley, Inc. for Commission Action](#) (Oct. 18, 2018).

RWA informed the Commission that the cost to participate in the MFII challenge process was tremendously high. Panhandle, in particular, has detailed these costs in the record.³ Other RWA members have also indicated that their challenge participation costs will approach \$1 million – funds that could have been much more productively spent on network deployment and maintenance.⁴ RWA members also noted that many entities (including RWA members) quite simply *couldn't* take part in the challenge process due to financial and time constraints. Out of 106 entities that had access to the USAC portal, only 21 submitted challenges.⁵ Several RWA members made the difficult decision to sit out the challenge process – not because of a lack of interest, but because overstated coverage across the country made participation prohibitively expensive. To illustrate just how high a barrier to entry there was, *three* small rural wireless carriers submitted more than 37 percent of the total test points submitted *nationwide*. This was not the “robust” challenge process that the Commission envisioned.⁶

RWA asked the Commission to further investigate the coverage data submitted by Verizon and T-Mobile and require corrected data going back to the January 4, 2018 time period so that the snapshot in time is accurate. If the data is corrected, RWA believes more area will be available for support, that it will be unnecessary for further challenges to take place, and for those members who sat out the challenge process – unserved areas will be available.

In addition, RWA urged the Commission to prohibit carriers who filed overstated coverage, projected coverage, or false coverage from participating in the MF-II reverse auction and to order those carriers that filed overstated coverage to pay the costs incurred by those entities that participated in the Challenge Process.

Given drive test results, and the difficulties associated with meeting the 75% testing threshold – RWA urges Commission staff to consider test results in cells where the 75% testing threshold was not met. Staff should use its discretion to make case-by-case eligibility decisions in those areas. This discretion would primarily be used in cases where: (1) grid cells were not accessible to meet the 75% testing threshold; (2) those grid cells are surrounded by accessible grid cells

³ *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Ex Parte Letter](#) from Caressa D. Bennet, Counsel to Panhandle Telecommunication Systems, Inc., to Ms. Marlene H. Dortch, Secretary, FCC (July 13, 2018), at [Attachment](#); *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Ex Parte Letter](#) from Erin P. Fitzgerald, Counsel to Panhandle Telecommunication Systems, Inc., to Ms. Marlene H. Dortch, Secretary, FCC (Dec. 6, 2018), at [Attachment](#).

⁴ *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Informal Request of the Rural Wireless Association, Inc. for Commission Action](#) (Aug. 6, 2018).

⁵ *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Public Notice](#) (Dec. 3, 2018).

⁶ *Universal Service Reform – Mobility Fund*; WC Docket No. 10-90, WT Docket No. 10-208, [Order on Reconsideration and Second Report and Order](#), at ¶ 1 (Aug. 4, 2017) (stating “[i]n this Order, we take the next step to extend mobile opportunities to rural America by fulfilling our commitment to design a robust challenge process that will direct Mobility Fund Phase II (MF-II) support to primarily rural areas that lack unsubsidized 4G Long Term Evolution (LTE) service”).

where challengers could meet the 75% threshold; AND (3) the surrounding grid cells' test points failed to meet the 5 Mbps coverage requirements.

Since RWA's meetings on December 6, 2018, RWA has welcomed the Commission's announcement that it is launching an investigation into whether one or more major carriers violated the MF-II reverse auction's mapping rules and submitted false coverage maps. Further, RWA applauds Chairman Pai's decision to suspend the next step of the challenge process until the investigation has concluded. RWA agrees that the Commission "must ensure that the data is accurate before it can proceed."⁷ RWA urges the Commission to pursue this investigation *nationwide*, and not only in the limited locations where it has challenge process data. RWA stands ready to assist the Commission in its efforts, and welcomes a continued dialogue with Commissioners and staff.

Proposed Sprint/T-Mobile Merger

RWA also discussed its opposition to the proposed Sprint/T-Mobile merger. While there are a number of reasons to oppose the transaction – competitiveness concerns and job losses among them – RWA focused on issues that specifically impact its rural carrier members and their customers. Both Sprint and T-Mobile ("the parties") have made sweeping generalizations about how the proposed transaction would improve rural wireless coverage. RWA strongly disagrees with these statements. Neither T-Mobile's past behavior, nor forward-looking coverage deployment information, bear these statements out.

The proposed transaction would harm the domestic roaming market. The merger would eliminate Sprint – the one nationwide carrier with which rural carriers are able to negotiate commercially reasonable data roaming rates. While it is impossible for RWA to provide the Commission with comprehensive data roaming information (made so by nationwide carriers' demands for non-disclosure agreements), RWA knows that T-Mobile data roaming rates are significantly more expensive than Sprint's – as much as 20 times more costly. The parties' plan to initially allow carriers with existing roaming agreements with either T-Mobile or Sprint to pick which rates will govern their relationship with New T-Mobile, but this does not alleviate RWA's concerns. First, the offer extends only to *existing* agreements – it does nothing for carriers that do not have existing agreements (RWA members explained that T-Mobile has refused to engage in negotiations for VoLTE roaming agreements, and that it has instructed Sprint to *not* engage in agreement renewals) or for new marketplace entrants. Further, those existing agreements will expire (likely in less than three years) and then carriers will have to negotiate new rates. By then, New T-Mobile will have raised rates and RWA members will no longer have Sprint as a roaming option.

In addition, T-Mobile's unwillingness to engage in bilateral roaming agreements harms its own customers and rural consumers alike. Far from *benefitting* rural America, T-Mobile's practice of entering into unilateral roaming agreements under which the rural carrier's subscribers can roam

⁷ [Press Release](#), *FCC Launches Investigation Into Potential Violations of Mobility Fund Phase II Mapping Rules* (Dec. 7, 2018).

on T-Mobile's network, but T-Mobile's customers may not roam on rural carriers' networks – even where T-Mobile's own network is substandard or non-existent – *actively harms* both rural and urban consumers. This practice deprives T-Mobile customers access to rural networks that their Universal Service Fund (“USF”) dollars helped build, and poses public safety concerns for those T-Mobile customers that will be expanded to 40 million more Sprint customers if the merger is allowed. This practice also harms competition by depriving rural competitive carriers of a stream of revenue, making it more difficult for them to stay in business.

RWA reminded the Commission that T-Mobile's rural call completion abuses are indicative of behavior that is detrimental to rural consumers. T-Mobile inserted false ring tones into its own customers' calls while failing to route millions of T-Mobile customers' calls to customers of rural landline telephone service providers.⁸ T-Mobile's illicit activity not only impacted T-Mobile customers, it caused economic harm to rural businesses and prevented an untold number of wireless and wireline consumers from being able to communicate with one another. This recent bad behavior is indicative of how the New T-Mobile (with 40 million more Sprint subscribers to abuse) is willing to disregard Commission rules in order to cut costs to improve its bottom line at consumers' expense. T-Mobile unjustly enriched itself at the expense its own customers as well as those of rural telephone companies in its furious attempts to elevate its position in the marketplace.

Further, the proposed transaction would allow additional spectrum to lie fallow. The parties have confirmed that current Sprint spectrum leases would not be renewed after the merger.⁹ T-Mobile's promise to “continue spectrum sales and leases where economically justified” offers no assurances to RWA members that T-Mobile will enter into these arrangements because the secondary market for fallow spectrum in rural areas is broken. High transaction costs and the ability to meet build out requirements by serving only major population centers and transportation corridors are disincentives to negotiate as the cost to do the transaction in rural markets is oftentimes close to the value of the spectrum being purchased. T-Mobile and Sprint are sitting on huge amounts of spectrum in rural areas and have not made use of this spectrum in more than 20 years of operation.

T-Mobile's argument that, with the 600 MHz spectrum it recently acquired during the Commission's incentive auction, it now finally aspires to become a rural-focused carrier and deliver 5G services to forgotten corners of the US is not supported in the record. The combined

⁸ *In the Matter of T-Mobile USA, Inc.*, [Order](#), File No.: EB-IHD-16-00023247, Acct. No.: 201832080003, FRN 0004121760, DA 18-373, at p. 1 (released April 16, 2018) (“*T-Mobile Order*”); *see also In the Matter of T-Mobile USA, Inc.*, [Consent Decree](#), File No.: EB-IHD-16-00023247, Acct. No.: 201832080003, FRN 0004121760, DA 18-373 (released April 16, 2018).

⁹ *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of the Licenses and Authorization*, [Joint Opposition of T-Mobile Inc. and Sprint Corporation](#), WT Docket No. 18-197, at p. 101, n.379 (Sept. 17, 2018).

T-Mobile/Sprint barely moves the needle on the build out of LTE/5G in rural areas over the next six years.¹⁰

Supply Chain Proceeding

RWA discussed problems with the language in Section 889 of the 2019 NDAA, stating that Section 889(b)(1) does not apply to USF programs because the section applies only to “loan” or “grant” funds, and therefore does not apply to USF subsidies. RWA also noted that Section 889 is intended to apply only to the federal government procurement process, of which the USF is not a part. However, RWA’s discussions with Senate Armed Services Committee staff indicate that there is “legislative will” to fix these statutory language concerns.

RWA reiterated that rural wireless carriers that are reliant on USF select their vendors based on: quality, reliability and security of vendors' products; attention to customer service; and cost-effective, customized solutions. RWA members have chosen Huawei and ZTE equipment, in large part, to keep equipment costs down and to be good stewards of USF support. The Commission’s use of reverse auctions to secure USF support has encouraged these decisions.

RWA expressed concern that, while rural carriers *have done everything right*, they (along with rural consumers) could become collateral damage in a larger national security and trade debate. RWA stated that, if the Commission moves forward with the rulemaking, it *must* provide the necessary funding to remove and replace existing equipment. Given that the Commission has not quantified the cost to rip and replace Huawei and ZTE equipment, nor considered the time and work involved in a rip and replace program, RWA urged the Commission to hold a workshop consisting of equipment vendors, network service providers, and network engineers to assist in evaluating the cost and time involved in changing out impacted network equipment. The information gleaned from such a workshop will inform the Commission on the amount of money and time needed to implement a rip and replace program. The Commission should then adopt an updated Further Notice of Proposed Rulemaking that seeks comment on these findings.

¹⁰ *Applications of T-Mobile US, Inc. and Sprint Corporation for Consent to Transfer Control of the Licenses and Authorization*, [Comments of Communications Workers of America](#), WT Docket No. 18-197, Appendix A: Declaration of Andrew Afflerbach, Ph.D., P.E. (Aug. 27, 2018).

Pursuant to Section 1.1206 of the Commission's Rules,¹¹ this *ex parte* is being filed electronically with the Office of the Secretary.

Respectfully submitted,

/s/ Caressa D. Bennet

Caressa D. Bennet, General Counsel
Erin P. Fitzgerald, Regulatory Counsel
5185 MacArthur Blvd., NW, Suite 729
Washington, DC 20016
(202) 857-4519
legal@ruralwireless.org

Cc: Will Adams
Erin McGrath
Umair Javed
Rachael Bender
Nathan Eagan
Kirk Burgee
Chelsea Fallon
Aaron Goldberger
David Lawrence
Kirk Arner
Pramesh Jobanputra
Kathy Harris
Aleks Yankelevich
Chris Smeenk
Robert Chen
Joel Rabinovitz
Catherin Matraves
Jonathan Campbell
David Sieradzki
Katherine LoPiccalo
Sara Mechanic
Thuy Tran
Charles Mathias
Jim Bird
Aaron Garza
Ramesh Nagarajan
Daniel Kahn
Kate Durmouchel
Trent Harkrader
Ryan Palmer

¹¹ 47 C.F.R. § 1.1206.

Attachment A – RWA Representatives

Carri Bennet- RWA

Erin Fitzgerald- RWA

Todd Houseman- CEO, United Wireless

Mike Kilgore- CEO, Sagebrush Cellular, Inc.

Remi Sun- CFO, Sagebrush Cellular, Inc.

Brian Woody- Chief Customer Relations Officer, Union Wireless

Jason Wilcox- Counsel, Union Wireless

Jana Wallace- COO, Panhandle Telephone Cooperative, Inc.

John Nettles- President, Pine Belt Cellular, Inc.

Lynn Merrill- President, Monte R. Lee and Company

James Dunn- CEO, Copper Valley Wireless

Attachment B – Rural Broadband Auctions Task Force Staff

Nathan Eagan- RBATF/Wireline Competition Bureau

Kirk Burgee- RBATF/Wireline Competition Bureau

Chelsea Fallon- RBATF/Wireline Competition Bureau

Aaron Goldberger- RBATF/Wireless Telecommunications Bureau

Attachment C – Sprint/T-Mobile Transaction Task Force Staff

David Lawrence- FCC
Kirk Arner- Wireless Telecommunications Bureau
Pramesh Jobanputra- Wireless Telecommunications Bureau
Kathy Harris- Wireless Telecommunications Bureau
Aleks Yankelevich- Office Special Projects
Chris Smeenk- Wireless Telecommunications Bureau
Robert Chen- Wireless Telecommunications Bureau
Joel Rabinovitz- Office of General Counsel
Catherin Matraves- Wireless Telecommunications Bureau
Jonathan Campbell- Wireless Telecommunications Bureau
David Sieradzki- Wireless Telecommunications Bureau
Katherine LoPiccalo- Office of Special Projects
Sara Mechanic- Wireless Telecommunications Bureau
Thuy Tran- Wireless Telecommunications Bureau
Charles Mathias- Wireless Telecommunications Bureau
Jim Bird- Office of General Counsel

Attachment D – Wireline Competition Bureau Staff

Aaron Garza- Deputy Division Chief, Pricing Policy Division
Ramesh Nagarajan- Assistant Division Chief, Competition Policy Division
Daniel Kahn- Division Chief, Competition Policy Division
Kate Durmouchel- Special Counsel, Telecommunications Access Policy Division
Trent Harkrader- Deputy Bureau Chief, Office of the Bureau Chief
Ryan Palmer- Division Chief, Telecommunications Access Policy Division