

Connect America Phase II Challenge Process Form
OMB Control Number 3060-1188
FCC Form 505

Filing Entity: Shenandoah Cable Television, LLC

FRN (if applicable): **0021657853**

Name of Person Filing Out Form: Ann Flowers

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Census Block 15 Digit FIPS Code	State	Name of Entity Making Initial Challenge	FRN of Entity Making Initial Challenge (if provided)	Insert X if Speed Criteria is at Issue	Insert X if Usage Allowance Criteria is at Issue	Insert X if Latency Criteria is at Issue	Insert X if Price Criteria is at Issue	Insert X if Voice Criteria is at Issue	Type of Supporting Evidence	Additional Comments
510310201023039	VA	CenturyLink						X	Waiver request	
510310201023041	VA	CenturyLink						X	Waiver request	
510310201023042	VA	CenturyLink						X	Waiver request	
510310206002096	VA	CenturyLink						X	Waiver request	
510310206003089	VA	CenturyLink						X	Waiver request	
510670201011044	VA	CenturyLink						X	Waiver request	
510670201011118	VA	CenturyLink						X	Waiver request	
510670201012094	VA	CenturyLink						X	Waiver request	
510670201021024	VA	CenturyLink						X	Waiver request	
510670201021082	VA	CenturyLink						X	Waiver request	
510670201021102	VA	CenturyLink						X	Waiver request	
510670201022041	VA	CenturyLink						X	Waiver request	
510670201022083	VA	CenturyLink						X	Waiver request	
510670201022111	VA	CenturyLink						X	Waiver request	
510670201022116	VA	CenturyLink						X	Waiver request	
510670201022146	VA	CenturyLink						X	Waiver request	
510670202003015	VA	CenturyLink						X	Waiver request	
510670202003094	VA	CenturyLink						X	Waiver request	
510670203001068	VA	CenturyLink						X	Waiver request	
510670203002089	VA	CenturyLink						X	Waiver request	
510670203002141	VA	CenturyLink						X	Waiver request	
510670203002152	VA	CenturyLink						X	Waiver request	
510670203002166	VA	CenturyLink						X	Waiver request	
510670204001025	VA	CenturyLink						X	Waiver request	
510670204001118	VA	CenturyLink						X	Waiver request	
510670204002015	VA	CenturyLink						X	Waiver request	
510670204002073	VA	CenturyLink						X	Waiver request	
510670205001074	VA	CenturyLink						X	Waiver request	
510670205001098	VA	CenturyLink						X	Waiver request	
510670205003030	VA	CenturyLink						X	Waiver request	
510670208005031	VA	CenturyLink						X	Waiver request	
510670209004025	VA	CenturyLink						X	Waiver request	
511350001003002	VA	CenturyLink						X	Waiver request	
511350001003012	VA	CenturyLink						X	Waiver request	
511350001005036	VA	CenturyLink						X	Waiver request	
511350001005102	VA	CenturyLink						X	Waiver request	
511350003001123	VA	CenturyLink						X	Waiver request	
511350003003033	VA	CenturyLink						X	Waiver request	
511350003005024	VA	CenturyLink						X	Waiver request	
511350003005037	VA	CenturyLink						X	Waiver request	
511359801001097	VA	CenturyLink						X	Waiver request	
511479302011047	VA	CenturyLink						X	Waiver request	
511479302022029	VA	CenturyLink						X	Waiver request	
511970502001078	VA	CenturyLink						X	Waiver request	
511970502001163	VA	CenturyLink						X	Waiver request	
511970502002064	VA	CenturyLink						X	Waiver request	
511970502002125	VA	CenturyLink						X	Waiver request	
511970502003022	VA	CenturyLink						X	Waiver request	
511970503011065	VA	CenturyLink						X	Waiver request	
511970503012008	VA	CenturyLink						X	Waiver request	
511970503013012	VA	CenturyLink						X	Waiver request	
511970503013015	VA	CenturyLink						X	Waiver request	
511970503013025	VA	CenturyLink						X	Waiver request	
511970503015018	VA	CenturyLink						X	Waiver request	
511970503015022	VA	CenturyLink						X	Waiver request	
511970503021018	VA	CenturyLink						X	Waiver request	
511970503022002	VA	CenturyLink						X	Waiver request	
511970504011022	VA	CenturyLink						X	Waiver request	

Accuracy and Due Diligence Certification

All Filers Must Fill Out

By initialing below, I certify that all statements contained in the attached form are true and accurate to the best of my knowledge, and that I have undertaken due diligence to obtain knowledge regarding these claims.

Certifier's Initials:

Date:

Notice of Challenge Certification

(Served to Unserved and Unserved to Served Challengers Fill Out One of the Following Blocks - Respondents Do Not Fill Out)

Service of Notice Successful

By initialing below, I certify that notice of this challenge has been served on all interested parties.

Certifier's Initials:

Date:

Service of Notice Unsuccessful

By initialing below I certify that, following a good faith effort, I was unable to serve notice of this challenge on all interested parties due to lack of information regarding the address of such parties.

Name of Party/Parties
that Could Not Be

Served:

Certifier's Initials:

Date:

The certifications on this page are subject to the penalties for false statements under 18 U.S.C. 1001.

APPENDIX A

to

Shenandoah Cable Television, LLC CAF Phase II Response to Challenge Filing

WC Docket No. 14-93; DA 14-1397

FACTUAL STATEMENT

Pursuant to the challenge response procedures set forth under DA 14-1397 and other authorities, I, Edward H. McKay, Vice President – Wireline and Engineering of **Shenandoah Cable Television, LLC** (“**Shenandoah Cable**”) provide this factual statement in support of Shenandoah Cable’s response to CenturyLink’s challenge of 146 census blocks identified in the Bureau’s September 26th Public Notice. CenturyLink claims in its challenge filing that either 1) the company contracted by CenturyLink to investigate the availability of phone service in various census blocks, GeoResults, found evidence that Shenandoah Cable does not offer phone service in one or more of these blocks, or 2) GeoResults was unable to verify that Shenandoah Cable offers voice service in one or more blocks with available data. Of the 146 blocks identified in CenturyLink’s challenge, 105 blocks are currently served or serviceable with voice service. The remaining 41 census blocks are either unpopulated or have a low number of serviceable addresses.

I have direct knowledge of the facts set forth in this statement as the result of my responsibilities in the position of Vice President – Wireline and Engineering. In that role, I am responsible for the design of Shenandoah Cable’s networks, and I review company information regarding subscribers, network facilities, revenue and other information in order to satisfy various regulatory reporting and compliance obligations. I certify to the accuracy of this information, to the best of my knowledge.

This statement supports two separate Form 505s filed by Shenandoah Cable. The first Form 505, designated as Shenandoah Cable 505-1, identifies 47 census blocks which

Shenandoah Cable “serves” (as that term is defined in the Bureau’s June 20 Public Notice). In these blocks Shenandoah Cable is: (1) offering voice and broadband service; (2) has voice and broadband-capable physical assets in the block; and, (3) has a current or former customer. The second Form 505, designated as Shenandoah Cable 505-2, identifies the 58 census blocks in which Shenandoah Cable has deployed voice and broadband-capable physical assets, and offers voice and broadband service. Shenandoah Cable serves these blocks with broadband and voice service, even though it does not have current or former customers in the block. In all of the census blocks identified in 505-1 and 505-2, Shenandoah Cable has deployed physical facilities and offers broadband and voice services that meet the price and performance metrics established by the Commission.

Additional evidence supporting Shenandoah Cable’s challenge is included in Appendix B. In form 505-1, Appendix B, Shenandoah Cable provides customer billing statements for the served census blocks. The addresses of the customers receiving these billing statements have been verified against the U.S. Census Bureau’s address database to confirm that they are within a challenged census block. These billing statements include bills for video, voice and data services. Video and data bills are included where there are no customers currently subscribing to voice service. As Shenandoah Cable delivers all three services over the same network infrastructure in these areas, the fact that video and/or data subscribers exist in a block is evidence that facilities exist within that census block over which voice service is available. In form Shenandoah Cable 505-2, Appendix B consists of a waiver request for the blocks where Shenandoah Cable has no current or former customers, but provides services.

Thus, the information in these appendices establishes that the broadband and voice services offered in all of these blocks meet the performance and pricing metrics set forth under

Commission rules. Specifically, the broadband service is provided: at speeds of at least 4 Mbps downstream and 1 Mbps upstream; with a minimum usage allowance of at least 100 GB/month; at a roundtrip latency of 100 ms or less; at a price that is reasonably comparable to rates in urban areas, which is consistent with the Commission's findings in the recent *Measuring Broadband America* report.¹ Voice service, which was the metric at issue in CenturyLink's challenge filing, is offered at a price that is reasonably comparable to, or below, rates in urban areas. It is also pertinent to note that Shenandoah Cable is providing evidence in this filing which supports its served status both in blocks where GeoResults was unable to confirm or deny that voice service is available, as well as in blocks where GeoResults affirmatively stated that voice service is not available.

¹ See *2014 Measuring Broadband America Fixed Broadband Report*; A Report on Consumer Fixed Broadband Performance in the U.S.; Office of Engineering and Technology and Consumer and Governmental Affairs Bureau at 16 (updated June 18, 2014).

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90, 14-93
)
)

**PETITION FOR LIMITED WAIVER OF
CAF PHASE II EVIDENTIARY REQUIREMENT**

Shenandoah Cable Television, LLC hereby petitions the Commission, pursuant to Section 1.3 of the Commission’s rules,¹ for a limited waiver of the Wireline Competition Bureau’s (“Bureau”) determination that under Phase II of the Connect America Fund (“CAF”) challenging parties must produce evidence of actual or former customers in a census block in order to establish that the block is “served” for purposes of determining whether the price cap incumbent local exchange (“LEC”) in that area is entitled to Phase II support.

I. INTRODUCTION

The Bureau’s evidentiary requirement should be waived because application of the requirement will result in the disbursement of subsidies to price cap LECs to overbuild networks already deployed by Shenandoah Cable Television, an unsubsidized competitor. CenturyLink has challenged as “unserved” 105² census blocks in areas where Shenandoah Cable Television has deployed physical networks assets over which it offers broadband and voice services to the residents of those areas. As such, these areas do not lack access to broadband and voice services, and are not unserved. The Commission has determined that subsidizing overbuilds in such areas

¹ 47 C.F.R. § 1.3.

² CenturyLink also challenged as “unserved” 41 census blocks that are in areas in which there is zero, or nearly zero, population. Shentel is not responding to those challenged blocks.

is a waste of public resources and harms competition. As such, good cause exists to grant this waiver request.

II. ARGUMENT

The Bureau's Public Notice dated June 20, 2014 purports to impose an evidentiary requirement that challenging parties in the CAF Phase II proceeding present evidence of current or former customers in a census block in order to challenge the Bureau's determination that the block is unserved.³ As a result, in those blocks where a challenging party has deployed physical assets to provide broadband and voice service, and offers such services in that area (but has no current or former customers), the Bureau's determination will result in a designation that the block is unserved. That, in turn, will permit the price cap incumbent LEC in that area to receive CAF Phase II support to deploy facilities that will be used to overbuild and compete directly with the unsubsidized competitor that has already deployed facilities to that area.

That outcome is inconsistent with the Commission's determination that broadband subsidies should not be directed to areas where unsubsidized competitors offer service. In the 2011 Connect America Fund Order the Commission determined that it would "exclude [from CAF funding] areas where an unsubsidized competitor offers broadband service..."⁴ Instead, the Commission determined that CAF support should only be directed to areas that "lack Internet access."⁵ This decision rests upon the sound policy determination that federal subsidies should be directed to those areas where market forces have not provided sufficient incentives to deploy

³ See Public Notice, Wireline Competition Bureau Provides Guidance Regarding Phase II Challenge Process, WC Docket No. 10-90, DA 14-864 at ¶ 9 (rel. June 20, 2014) (hereafter "Public Notice").

⁴ See *Connect America Fund*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 at ¶ 170 (2011) ("CAF Order").

⁵ *Connect America Fund*, Order, WC Docket No. 10-90, 29 FCC Rcd 181 at ¶ 17 (2014) (citing Phase I Order, 28 FCC Rcd at 7771-72, ¶ 15).

broadband to unserved areas. Accordingly, the Commission recognized that funding should not be directed to areas in which an unsubsidized competitor already offers service.

Concomitant to that principle is the recognition that the government should not create an uneven playing field by subsidizing the deployment of facilities in those areas where an unsubsidized competitor (relying on private capital) has already deployed facilities. The government should not be subsidizing providers to compete with unsubsidized competitors because such policies undermine competition and waste public resources. Further, such policies create a significant disincentive for broadband providers to raise private capital in order to deploy networks in unserved and underserved areas.

Good cause exists to waive the Bureau's evidentiary requirement because the problems previously articulated by the Commission, such as avoiding the potential subsidization of overbuilds and wasting public resources, will become an unfortunate reality in many areas served by Shenandoah Cable Television absent a waiver of the rule. Shenandoah Cable Television has deployed broadband and voice-capable network assets (i.e., physical plant and networking equipment) in 58 census blocks that will be treated as "unserved" under Phase II if the Bureau's evidentiary requirement is not waived. As the Commission has recognized, there may be circumstances where a provider has deployed broadband networks and is actively offering service, but does not yet have any customers.⁶

That is the case with Shenandoah Cable Television in 58 census blocks where Shenandoah Cable Television has deployed, or is about to deploy, physical network assets capable of delivering broadband and voice services to prospective customers. It can generally deliver service within seven to ten days of a request, absent extraordinary measures. Further,

⁶ See *Connect America Fund*, Second Order on Reconsideration, WC Docket No. 10-90, 27 FCC Rcd 4648, ¶ 13 (2012) ("[A] provider may have no customers in a particular census block, even though it offers service there.").

Shenandoah Cable Television is actively marketing and advertising its service in these areas. Thus, Shenandoah Cable Television serves these blocks with voice and broadband service and these areas clearly do **not** lack access to Internet or voice services.

The reasons that Shenandoah Cable Television is unable to identify current or past customers in these areas are several. First, these are very rural areas with a low population density per census block. As a result, the number of potential customers per census block is significantly lower than in more populated urban and suburban areas. Second, many of these census blocks are in areas where the income level is quite low, and residents may not have the means (or desire) to purchase broadband service. Finally, Shenandoah Cable Television acquired these systems within the past five years (in some cases within the past 18 months), and does not have billing records from periods prior to its acquisition, and is therefore unable to identify any customers who may have received service prior to its acquisition. Nonetheless, Shenandoah Cable Television has deployed facilities in these areas and continues to offer services to the residents of these census blocks.

Absent a waiver, in 58 census blocks in which Shenandoah Cable Television cannot identify a present or past customer, the price cap incumbent LEC will be entitled to CAF support to deploy broadband networks alongside those network facilities already deployed by Shenandoah Cable Television, LLC. The price cap LEC will then be in a position to leverage that subsidized network to compete directly with Shenandoah Cable Television in these areas. That result is untenable. The Commission must not create an uneven playing field by subsidizing price cap LECs in those areas where Shenandoah Cable Television has already deployed facilities through the expenditure of private capital.

III. CONCLUSION

Accordingly, Shenandoah Cable Television respectfully requests a limited waiver of the Bureau's evidentiary rule to permit Shenandoah Cable Television to submit evidence that it serves 58 census blocks by offering broadband and voice service to such areas. Grant of this waiver would permit the Bureau to determine that these areas are "served" for purposes of CAF Phase II challenges, and that Phase II support is therefore not permitted in such areas.

Respectfully submitted,



Ann E. Flowers
Associate General Counsel

November 10, 2014