

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

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 14-93
)	
CAF Phase II Challenge Process)	

**CENTURYLINK RESPONSE TO CAF PHASE II CHALLENGES
SEEKING TO RECLASSIFY UNSERVED CENSUS BLOCKS AS SERVED**

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CenturyLink submits this Response to oppose challenges filed by several broadband providers who assert that various census blocks in CenturyLink areas should be ineligible for Connect America Fund Phase II funding, even though the Wireline Competition Bureau (the “Bureau”) initially determined that these census blocks are unserved by broadband and voice service meeting the Federal Communications Commission’s (FCC or Commission) minimum service standards.¹

INTRODUCTION AND SUMMARY

The Bureau should reject these challenges to the extent identified in this Response because, as set forth below, the evidence does not support the conclusion that these challengers offer adequate broadband and voice service in the census blocks at issue. For these challenges, the *challenger* is tasked with the responsibility of demonstrating that they provide the requisite broadband and voice service in each census block that they are challenging. To do so they must demonstrate all of the following:

¹ Many, but not all, of the bases on which CenturyLink is refuting the unserved-to-served challenges as reflected on its Form 505 Response to Challenges are set out here. CenturyLink’s Form 505 identifies the specific exhibits supporting its response to each challenge census block.

- they offer broadband service meeting the specific speed, pricing, latency and usage limits criteria set out by the Commission throughout the challenged census blocks;
- they are offering voice throughout the challenged census blocks in a manner and at a price that meets the Commission's requirements;
- they have at least one current or former customer of their broadband or voice services in each challenged census block; and
- if they are a subsidized provider, they must demonstrate why a waiver of the unsubsidized competitor requirement is warranted.

In this Response and with the other supporting documents to its Form 505, CenturyLink refutes the challengers' assertions that they serve the challenged census blocks because they have failed to make one or more of these showings. As reflected in section II below, the challengers have not made these showings because they have failed to provide sufficient proof of meeting the broadband speed, pricing, usage allowance, and/or latency requirements, failed to provide proof of providing qualifying voice service, failed to provide sufficient proof of a current or former customer in each challenged census block, and/or failed to qualify as an unsubsidized competitor. CenturyLink also provides other supporting documents to refute the challenges based on evidence that many of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink, evidence from website tools that reflect that no locations in a challenged census block are served by the challenger, and evidence that contradicts claims that the challengers are providing the requisite broadband and voice services.

In addition, several providers did not even attempt to argue they have sufficient evidence that they serve the census blocks at issue. The Bureau requires that a challenger claiming to serve a census block provide evidence that the challenger serves — or has served — at least one broadband or voice customer in the census block.² Several challengers ask the Bureau to waive this requirement, and the Bureau permitted these waivers to proceed to the response stage of the challenge process.³ In light of the evidence set forth below, the Bureau now should deny these waivers.

As the Commission has stated, the goal of CAF Phase II is to ensure “that residents in all parts of the country, including rural and high-cost areas, have access to advanced telecommunications and information services.”⁴ It is appropriate for the Commission to take reasonable steps to prevent the use of Phase II funds in areas that are already served by broadband meeting the Commission’s standards. But the Commission must balance the risk of overbuilding with the risk of erroneously removing unserved areas from funding eligibility. With respect to the census blocks discussed herein, the challengers have not presented sufficient evidence that adequate broadband is genuinely available to people living in these census blocks. If the Bureau does not permit the use of CAF Phase II funding to deploy broadband to these areas, they risk being left even further behind for years to come.

² *Wireline Competition Bureau Provides Guidance Regarding Phase II Challenge Process*, WC Docket No. 10-90, Public Notice, DA 14-8641, 29 FCC Rcd 7505, 7507-08 (rel. June 20, 2014) (“*Phase II Challenge Process Guidance PN*”).

³ *Replies Sought in Connect America Phase II Challenge Process*, WC Docket Nos. 10-90 & 14-93, Public Notice, DA 14-1397, at 3-4 (rel. Sept. 26, 2014) (“*Phase II Challenge Response PN*”).

⁴ *Connect America Fund et al.*, R&O, Declaratory Ruling, Order, Mem. Op. & Order, 7th Order on Recon., & FNPRM, WC Docket No. 10-90 *et al.*, 29 FCC Rcd 7051, at ¶ 138 (rel. June 10, 2014) (citing 47 U.S.C. § 254(b)) (“*CAF II Omnibus*”).

I. THE BUREAU SHOULD NOT WAIVE THE CURRENT OR FORMER CUSTOMER EVIDENTIARY REQUIREMENT.

A. The Waiver Requests Do Not Show That Special Circumstances Excuse Challengers From the Requirement to Identify a Single Current or Former Customer.

When it established the Phase II challenge process, the Bureau made clear that in order to claim it serves a census block, a provider “must already have customers in that census block, or previously [have] had customers in that census block.”⁵ The Bureau reaffirmed on reconsideration that the customer requirement reflects the Bureau’s determination, based on the *USF/ICC Transformation Order*, “that something more than ‘offering’ service should be required to exclude an area from Phase II support.”⁶ Nonetheless, various providers sought waivers to allow them to exclude from Phase II funding census blocks where the challenger has no current or former customers.

The Commission may waive its rules for good cause shown when (1) there are special circumstances warranting deviation from the general rule and (2) waiver will serve the public interest.⁷ With respect to providers asserting that they serve census blocks in CenturyLink areas, several of these challengers generally assert — in a vague and conclusory fashion — that the census blocks at issue “are very rural areas with a low population density per census block”

⁵ *Phase II Challenge Process Guidance PN*, 29 FCC Rcd at 7507-08.

⁶ *Connect America Fund*, WC Docket No. 10-90, Order, 29 FCC Rcd 9624, 9625 (rel. Aug. 11, 2014) (“*Phase II Challenge Recon Order*”) (citing *Connect America Fund et al.*, WC Docket No. 10-90 et al., R &O et al., 26 FCC Rcd 17663, 17673, 17701, 17725, 17729-30 (2011)) (“*USF/ICC Transformation Order*”).

⁷ See 47 C.F.R. § 1.3; *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

and/or “are in areas where the income level is quite low.”⁸ CenturyLink’s analysis confirms, however, that these factors do not pose “special circumstances” justifying a waiver of the Bureau’s evidentiary requirements. Indeed, such factors are central to the definition of census blocks that are eligible for CAF II funding. It would be illogical and unfortunate for the customers that live in such areas if they were to be denied CAF II-supported broadband simply because they live in an area that has the characteristics of a CAF II-funded area.

As set forth in the Declaration of Daniel R. Gordon, CenturyLink Regulatory Operations Manager, CenturyLink conducted a statistical analysis comparing census blocks for which challengers requested waivers of the customer-evidence requirement and census blocks for which no such waivers were requested.⁹ The analysis revealed that there is little or no consistent statistical difference between the waiver and non-waiver areas.¹⁰ Indeed, one statistically significant difference between these categories of census blocks actually undermined the

⁸ See, e.g., Armstrong Utilities, Inc. Petition for Limited Waiver of CAF Phase II Evidentiary Requirement, WC Docket Nos. 10-90, 14-93, at 4 (filed Aug. 29, 2014) (“Armstrong Waiver Petition”); Bright House Networks, LLC Petition for Limited Waiver of CAF Phase II Evidentiary Requirement, WC Docket Nos. 10-90, 14-93, at 4 (filed Aug. 14, 2014) (“Bright House Waiver Petition”); Shenandoah Cable Television, LLC Petition for Limited Waiver of CAF Phase II Evidentiary Requirement, WC Docket Nos. 10-90, 14-93, at 4 (filed Aug. 14, 2014) (“Shenandoah Waiver Petition”); WaveDivision Holdings, LLC Petition for Limited Waiver of CAF Phase II Evidentiary Requirement, WC Docket Nos. 10-90, 14-93, at 4 (filed Aug. 14, 2014) (“WaveDivision Waiver Petition”); Many of the waiver requests also reiterate policy arguments against the customer-evidence requirement itself. See, e.g., Armstrong Waiver Petition at 3 (citing Petition for Reconsideration of the American Cable Association and the National Cable & Telecommunications Association, WC Docket No. 10-90 (filed July 21, 2014) (“ACA/NCTA Recon Petition”)); Shenandoah Waiver Petition at 2-3; WaveDivision Waiver Petition at 2-3. The Bureau already has reaffirmed the propriety of the requirement in its rejection of the ACA/NCTA Recon Petition. See *Phase II Challenge Recon Order*, 29 FCC Rcd at 9625-26. Thus, these policy arguments are no more than improper collateral challenges to the customer-evidence requirement and do not provide any basis for a waiver.

⁹ Declaration of Daniel R. Gordon, at ¶¶ 2-8, attached hereto as Exhibit 14 (“Gordon Decl.”).

¹⁰ Gordon Decl. at ¶ 5.

provider's waiver arguments. When CenturyLink analyzed the census blocks for which Armstrong Utilities (Armstrong) sought waivers, CenturyLink found no statistically significant difference in density when compared to blocks for which Armstrong sought no waiver.¹¹ In fact, in Armstrong's case for one set of test results the average per capita income of the waiver areas is *higher* than that in non-waiver areas.¹² The data therefore fail to support Armstrong's contention that it faces special income- or density-based barriers in the census blocks where it has no current or former customers. As set forth below, other challengers' density- and income-based waiver claims are similarly flawed.

As the U.S. Court of Appeals for the D.C. Circuit has explained, it is arbitrary and capricious for the Bureau to waive a procedural requirement unless the Bureau can "explain why deviation better serves the public interest, *and* articulate the nature of the special circumstances" justifying a waiver.¹³ Here, the Bureau provisionally granted the requested waivers in order to allow these challenges to proceed to the response stage. CenturyLink's response demonstrates, however, that even if "low density or high poverty in the blocks . . . could provide a plausible explanation as to why a census block has access to service but no customers,"¹⁴ those factors are not a plausible explanation for the challengers' lack of current or former customers in the census blocks at issue here. Other purported justifications for the waivers discussed herein — including shortcomings in providers' own recordkeeping or general statements that a challenger may have upgraded deployments in some census blocks — also are insufficient to support the requested waivers. The Bureau thus should deny these waiver requests and, accordingly, reject these

¹¹ Gordon Decl. at ¶ 9.

¹² *Id.*

¹³ See *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008) (emphasis in original).

¹⁴ *Phase II Challenge Response PN* at 4 n.18.

challengers' attempts to reclassify as "served" the census blocks for which the providers are unable to offer evidence of even a single current or former broadband or voice customer.

B. The Bureau Should Deny the Waiver Requests Identified Herein.

1. Armstrong Utilities, Inc.

Armstrong requests a waiver of the customer-evidence requirement for 647 census blocks the Bureau initially determined to be unserved, 101 of which are in CenturyLink areas.¹⁵ In addition to Armstrong's general policy-based objection to the customer-evidence requirement, Armstrong argues a waiver is justified because the census blocks "are very rural areas with a low population density per census block" and "many of these census blocks are in areas where the income level is quite low."¹⁶ Armstrong provides no further detail about the particular population densities or income levels in these census blocks. Moreover, as discussed above, CenturyLink's analysis of the census blocks for which Armstrong sought waivers revealed no statistically significant difference in density when compared to blocks Armstrong asserted it served without seeking a waiver (presumably because Armstrong had a current or former customer in those blocks).¹⁷ In fact, in Armstrong's case the average per capita income of the waiver areas is *higher* than that in non-waiver areas.¹⁸ The data therefore fail to support Armstrong's contention that it faces special income- or density-based barriers in the census blocks where it has no current or former customers. Accordingly, Armstrong's waiver should be denied, and the Bureau should not reclassify as "served" any census blocks for which Armstrong cannot provide evidence of at least one current or former broadband or voice customer.

¹⁵ Armstrong Waiver Petition at 1; Gordon Decl. at ¶ 9.

¹⁶ Armstrong Waiver Petition at 4.

¹⁷ Gordon Decl. at ¶ 9.

¹⁸ *Id.*

2. *BEK Communications Cooperative*

BEK Communications Cooperative (BEK) does not request a waiver of the customer-evidence requirement, yet in Exhibit L to its Form 505 it asks the Commission to treat as “served” 48 census blocks in CenturyLink areas in which BEK “is able and willing to provide voice and broadband service to customers within seven to ten business days without an extraordinary commitment of resources and without any special construction charge or construction fee to consumers in that block.”¹⁹ CenturyLink opposes the reclassification of any BEK census blocks for which BEK has not provided evidence of a current or former customer. The Bureau already has determined that a census block generally may not be considered “served” by a provider — even if the provider has infrastructure in the block and holds itself out as offering service in the block — unless the provider has a current or former voice or broadband customer,²⁰ and BEK offers no justification for any waiver of the Phase II evidentiary requirements. BEK’s request is highly similar to other waiver requests that the Bureau has already denied, and it should be treated in the same manner.²¹

3. *Bright House Networks, LLC*

Bright House Networks, LLC (Bright House) requests a waiver of the customer-evidence requirement for 32 census blocks the Bureau initially determined to be unserved, 15 of which are in CenturyLink areas.²² In addition to Bright House’s general policy-based objection to the customer-evidence requirement, Bright House argues a waiver is justified because the census

¹⁹ BEK Communications Cooperative Form 505, at Exhibit L (filed Aug. 14, 2014).

²⁰ *Phase II Challenge Recon Order*, 29 FCC Rcd at 9625; *Phase II Challenge Process Guidance PN*, 29 FCC Rcd at 7507-08.

²¹ See *Phase II Challenge Response PN* at 3 n.17.

²² Bright House Waiver Petition at 3-4; Gordon Decl. at ¶ 10.

blocks “are located in very rural areas” where “the population density per census block is quite low.”²³ Bright House provides no further detail about the particular population densities in these census blocks, nor does it provide any other specific justification for a waiver in these blocks. CenturyLink’s analysis of the census blocks for which Bright House sought waivers revealed no statistically significant difference in per capita income compared to blocks for which Bright House sought no waiver.²⁴ The data therefore fail to support Bright House’s contention that it faces special income-based barriers in the census blocks where it has no current or former customers.

The blocks for which Bright House sought waivers do have lower household density compared to the non-waiver census blocks.²⁵ But lower density alone – a hallmark of high-cost areas – does not justify a waiver of the customer-evidence requirement, particularly where, as here, the waiver applicant has failed to provide any evidence or analysis of the specific population densities in the affected census blocks. Without a showing that the population density in these census blocks is significantly lower than the range of population density in the blocks CAF Phase II is intended to serve, Bright House’s request amounts to nothing more than an improper collateral attack on the customer-evidence requirement itself. CenturyLink’s data contradicts Bright House’s contention that it faces special income-based barriers in the census blocks where it has no current or former customers and should not be used to justify a waiver based solely on low density. Accordingly, Bright House’s waiver should be denied, and the

²³ Bright House Waiver Petition at 4.

²⁴ Gordon Decl. at ¶ 10.

²⁵ *Id.*

Bureau should not reclassify as “served” any census blocks for which Bright House cannot provide evidence of at least one current or former broadband or voice customer.

4. *Charter Communications, Inc.*

Charter Communications, Inc. (Charter) requests a waiver of the customer-evidence requirement for 106 census blocks the Bureau initially determined to be unserved, of which 11 are in CenturyLink areas.²⁶ Charter argues that a waiver is justified because, even though Charter “has no record of having a current or former voice or broadband subscriber,” Charter “has voice and broadband physical assets in the census block and makes the requisite level of service available,” and therefore “the purposes of the Commission’s CAF rules would be thwarted by strictly requiring evidence of a current or former customer.”²⁷ In essence, Charter’s purported “waiver” request is nothing more than a veiled request for reconsideration of the customer-evidence requirement and the Bureau’s determination “that something more than ‘offering’ service should be required to exclude an area from Phase II support.”²⁸ The Bureau already has considered the points raised by Charter and has twice determined that a census block generally may not be considered “served” by a provider — even if the provider has infrastructure in the block and holds itself out as offering service in the block — unless the provider has a current or former voice or broadband customer.²⁹ The fact that Charter disagrees with the

²⁶ Charter Communications, Inc., Petition for Limited Waiver of CAF Phase II Evidentiary Requirement, WC Docket Nos. 10-90, 14-93, at 2 (filed Aug. 14, 2014) (“Charter Waiver Petition”); Gordon Decl. at ¶ 11.

²⁷ *Id.*

²⁸ *Phase II Challenge Recon Order*, 29 FCC Rcd at 9625.

²⁹ *Phase II Challenge Recon Order*, 29 FCC Rcd at 9625; *Phase II Challenge Process Guidance PN*, 29 FCC Rcd at 7507-08.

Bureau's policy determination is not a valid basis for seeking a waiver of the customer-evidence requirement.

In addition, to the extent Charter suggests that its inability to identify a customer in some blocks should be excused because the blocks "are located in extremely rural areas,"³⁰ CenturyLink's analysis found no statistically significant difference in per capita income or household density per square mile between blocks where Charter sought a waiver and blocks it asserted it was serving without requesting a waiver.³¹ The data therefore fail to support Charter's contention that it faces special income or density-based barriers in the census blocks where it has no current or former customers. Finally, to the extent Charter suggests that its inability to identify a customer in some blocks should be excused because "Charter may have deployed plants in new housing subdivisions where home purchasers have not yet taken possession," the Charter Waiver Petition fails to provide any specific evidence to support that contention.³² Charter does not identify the specific census blocks where new housing subdivisions would justify an evidentiary waiver, nor does Charter even assert affirmatively that this excuse applies to any of the census blocks at issue. Moreover, even if Charter has deployed infrastructure to new subdivisions in a census block, that does not explain why Charter should be excused from meeting the customer-evidence requirement by identifying a current or former customer in other, already-developed portions of the census block.

Thus, Charter has failed to provide any evidence of "special circumstances" justifying a waiver of the customer-evidence requirement in any of the challenged blocks. Accordingly,

³⁰ Charter Waiver Petition at 3 n.8.

³¹ Gordon Decl. at ¶ 11.

³² Charter Waiver Petition at 3 n.8.

Charter's waiver should be denied, and the Bureau should not reclassify as "served" any census blocks for which Charter cannot provide evidence of at least one current or former broadband or voice customer.

5. *Cox Communications, Inc.*

Cox Communications Inc. ("Cox") seeks a waiver from the customer-evidence requirement with respect to 139 census blocks in CenturyLink areas.³³ For most of these census blocks, Cox does not assert that any special characteristics of the *blocks* justify a waiver. Rather, Cox asserts the Bureau should waive the customer-evidence requirement because *Cox* in many cases has failed to update its network deployment database to account for street address changes and similar developments, thus preventing Cox from using its billing records to identify current or former customers in these census blocks.³⁴ In essence, Cox asserts that the Bureau should presume Cox has customers in any census block where Cox has deployed available infrastructure. That is precisely the presumption the Bureau has repeatedly refused to make.

The Bureau already has determined that a census block generally may not be considered "served" by a provider — even if the provider has infrastructure in the block and holds itself out as offering service in the block — unless the provider has a current or former voice or broadband customer.³⁵ The shortcomings of Cox's recordkeeping system do not constitute special circumstances that would justify relieving Cox of its burden to prove it serves or has served a customer in each census block it wishes to exclude from Phase II funding. Cox's request

³³ Request for Waiver of Cox Communications, Inc., WC Docket Nos. 10-90 & 14-93, at Exhibit 1 (filed Aug. 14, 2014) ("Cox Waiver Petition");

³⁴ Cox Waiver Petition at 4.

³⁵ *Phase II Challenge Recon Order*, 29 FCC Rcd at 9625; *Phase II Challenge Process Guidance PN*, 29 FCC Rcd at 7507-08.

amounts to an improper collateral attack on the customer-evidence requirement, which the Bureau should not entertain.

Cox also requests waivers for 10 census blocks in which Cox asserts it has deployed infrastructure to unfinished subdivisions.³⁶ Cox argues a waiver of the customer-evidence requirement is justified because “the reason that Cox does not have any actual customers in these areas is that there are no customers to serve,” and Cox “already is committed to serving any customers who may appear [sic] those areas.”³⁷ Presumably, because these census blocks have been initially identified as eligible for CAF Phase II support, these census blocks have existing consumer locations that have been identified for funding.³⁸ Cox has not explained why a failure to identify a current or former customer from among these census blocks’ existing residents should be excused. To the extent that there are no consumers living in these census blocks, no CAF Phase II funding should be available. As such, either there are no special circumstances warranting a waiver for these ten census blocks or the waiver request is moot.

Because Cox has failed to provide any evidence of “special circumstances” justifying a waiver of the customer-evidence requirement in any of the census blocks discussed herein, Cox’s waiver request should be denied. The Bureau should not reclassify as “served” any of these census blocks for which Cox cannot provide evidence of at least one current or former broadband or voice customer.

6. *Mobius Communications Company*

³⁶ Cox Waiver Petition at 5.

³⁷ *Id.* at 6.

³⁸ The locations eligible for funding should result from U.S. Census data that reflects that customers are living in the census blocks.

Although Mobius Communications Company (Mobius) does not request a waiver of the customer-evidence requirement, Attachments 1 and 8 to its Form 505 ask the Commission to treat as “served” 30 census in which Mobius “1) holds itself out to the public as able and willing to provide service and 2) it has voice and broadband-capable assets, but does not have prior or current customers.”³⁹ Mobius did not list these blocks in its Form 505, nor did the Bureau include these blocks on its list of blocks for which a party has made a *prima facie* showing that the block should be ineligible for Phase II funding. Accordingly, CenturyLink’s understanding is that no response is required, as these blocks may not be reclassified as “served” based on Mobius’s filing.⁴⁰ However, out of an abundance of caution and to the extent required, CenturyLink opposes the reclassification of any Mobius census blocks that Mobius did not list in the body of its Form 505 and for which Mobius has not provided evidence of a current or former customer. The Bureau already has determined that a census block generally may not be considered “served” by a provider — even if the provider has infrastructure in the block and holds itself out as offering service in the block — unless the provider has a current or former voice or broadband customer,⁴¹ and Mobius offers no justification for any waiver of the Phase II evidentiary requirements.

7. *Shenandoah Cable Television*

Shenandoah Cable Television (Shenandoah) requests a waiver of the customer-evidence requirement for 93 census blocks the Bureau initially determined to be unserved, 10 of which are

³⁹ Mobius Communications Company Form 505, at Attachments 1, 8 (filed Aug. 14, 2014) (“Mobius 505 Filing”).

⁴⁰ *See Phase II Challenge Response PN* at 1 (“Responses may only be filed regarding blocks for which a *prima facie* challenge has been made.”).

⁴¹ *Phase II Challenge Recon Order*, 29 FCC Rcd at 9625; *Phase II Challenge Process Guidance PN*, 29 FCC Rcd at 7507-08.

in CenturyLink areas.⁴² In addition to Shenandoah’s general policy-based objection to the customer-evidence requirement, Shenandoah argues a waiver is justified in part because the census blocks “are very rural areas with a low population density per census block” and “many of these census blocks are in areas where the income level is quite low.”⁴³ Shenandoah’s waiver petition provides no further detail about the particular population densities or income levels in these census blocks. CenturyLink’s analysis of the census blocks for which Shenandoah sought waivers revealed that, although there are fewer households in the census blocks for which Shenandoah sought waivers, there was *no statistically significant difference* in customer density or income levels when compared to blocks for which Shenandoah claims to serve without seeking a waiver.⁴⁴ The data therefore fail to support Shenandoah’s contention that it faces special income- or density-based barriers in the census blocks where it has no current or former customers.

Shenandoah also argues that a waiver is justified in a number of census blocks where it acquired systems as long as 5 years ago but apparently did not obtain historical billing records for the acquired systems.⁴⁵ However, the fact that Shenandoah failed to acquire these records from the systems’ prior owners is not a valid basis on which to waive the customer-evidence requirement. Shenandoah essentially asks the Bureau to presume the blocks Shenandoah identified were served in the absence of evidence to the contrary, but it is the *challenger’s* burden to present evidence of current or former customers in each census block the provider seeks to exclude from Phase II finding eligibility. Sales of cable systems are common;

⁴² Shenandoah Waiver Petition at 5; Gordon Decl. at ¶ 11.

⁴³ Shenandoah Waiver Petition at 4.

⁴⁴ Gordon Decl. at ¶ 11.

⁴⁵ Shenandoah Waiver Petition at 4.

Shenandoah’s failure to obtain historical billing records for its acquired systems does not constitute a “special circumstance” that would justify relieving Shenandoah of the Bureau’s evidentiary requirements.

Shenandoah also argues that with respect to these census blocks 34 are in census blocks where Shenandoah has recently upgraded service that began launch on August 4, 2014 and 16 are census blocks where Shenandoah will be launching upgraded service in October. The fact that Shenandoah is launching *upgraded* service in these census blocks suggest that Shenandoah has been offering other service in these census block for some time prior to the launch of these upgraded services. Launching “new” upgraded service in areas where Shenandoah has been providing other services for at least eighteen months is not a special circumstance that should relieve Shenandoah of the evidentiary requirement to demonstrate it has at least one current or former customer in each challenged census block.

Accordingly, Shenandoah’s waiver should be denied in its entirety, and the Bureau should not reclassify as “served” any census blocks for which Shenandoah cannot provide evidence of at least one current or former broadband or voice customer.

8. *Cequel Communications, LLC d/b/a Suddenlink Communications (“Suddenlink”)*

Suddenlink requests a waiver of the customer-evidence requirement for 651 census blocks the Bureau initially determined to be unserved, 208 of which are in CenturyLink areas.⁴⁶ In addition to Suddenlink’s general policy-based objection to the customer-evidence requirement, Suddenlink argues a waiver is justified in part because the census blocks “are very rural areas with a low population density per census block” and “many of these census blocks are

⁴⁶ Suddenlink Waiver Petition at 2; Gordon Decl. at ¶ 12.

in areas where the income level is quite low.”⁴⁷ Suddenlink’s waiver petition provides no further detail about the particular population densities or income levels in these census blocks.

CenturyLink’s analysis of the census blocks for which Suddenlink sought waivers revealed no statistically significant difference with respect to per capita income between the blocks for which Suddenlink has requested a waiver and other blocks Suddenlink asserts that it serves.⁴⁸ The data therefore fail to support Suddenlink’s contention that it faces special income-based barriers in the census blocks where it has no current or former customers.

The blocks for which Suddenlink sought waivers do have lower household density compared to the non-waiver census blocks. But lower density alone – a hallmark of high-cost areas – does not justify a waiver of the customer-evidence requirement, particularly where, as here, the waiver applicant has failed to provide any evidence or analysis of the specific population densities in the affected census blocks. Without a showing that the population density in these census blocks is significantly lower than the range of population density in the blocks CAF Phase II is intended to serve, Suddenlink’s request amounts to nothing more than an improper collateral attack on the customer-evidence requirement itself.

Finally, although Suddenlink asserts that a waiver is justified because “some of these areas have been newly constructed and residents have not yet ordered service,” Suddenlink fails even to identify which blocks contain new construction. Even if new construction were a valid basis for waiving the customer-evidence requirement, the Bureau cannot grant a waiver for *all* of Suddenlink’s blocks based on new construction in *some* blocks. Because Suddenlink’s Waiver Petition does not identify the blocks with new construction, and because Suddenlink was

⁴⁷ Suddenlink Waiver Petition at 4.

⁴⁸ Gordon Decl. at ¶ 12.

required to provide all necessary evidence to support its challenge with its initial filing,⁴⁹ the Bureau cannot grant Suddenlink any waiver based on purported new construction.

Accordingly, Suddenlink's waiver should be denied, and the Bureau should not reclassify as "served" any census blocks for which Suddenlink (or another challenging provider) cannot provide evidence of at least one current or former broadband or voice customer.

9. *Vyve*

Vyve requests a waiver of the customer-evidence requirement for 645 census blocks the Bureau initially determined to be unserved.⁵⁰ One-hundred twenty-seven of these are in CenturyLink areas. Vyve asserts that it has plant and is actively marketing in these census blocks, but that it "does not have current customers in these areas because it has only recently acquired, and upgraded the facilities, of many of the properties at issue."⁵¹ CenturyLink submits that recent acquisition and newly upgraded facilities do not constitute special circumstances warranting relief from the customer evidentiary requirement. Vyve has not asserted that its predecessors offered no voice or broadband service in these areas. It has not asserted that with its "recent" acquisition and upgrading activities that this is the first time it has offered voice and broadband service in these areas. Again, sales of systems are not unusual, and any failure to obtain historical billing records for acquired systems should not be a special circumstance allowing Vyve to circumvent the evidentiary rule of demonstrating just a single customer in each census block it is challenging. Similarly, the fact that Vyve has only recently *upgraded* facilities in these census blocks suggests that other services have been offered (whether by Vyve or a

⁴⁹ *Phase II Challenge Process Guidance PN*, 29 FCC Rcd 7507.

⁵⁰ Vyve Waiver Petition at 1.

⁵¹ Vyve Waiver Petition at 4.

predecessor) in these census block for some time prior to the launch of these upgraded services. Launching upgraded facilities is not a special circumstance that should relieve Vyve of the evidentiary requirement to demonstrate it has at least one current or former customer in each challenged census block. Still further, even if recent acquisition of systems or recent upgrading of facilities could constitute special circumstances, Vyve has not bothered to specify how “recently” these activities occurred. Vyve’s vague statement that it has recently acquired and upgrade facilities in 645 census blocks should not be sufficient to relieve Vyve of the evidentiary requirement to demonstrate that it has a single current *or former* customer in each challenged census block.

10. *WaveDivision Holdings, LLC*

WaveDivision Holdings, LLC (WaveDivision) requests a waiver of the customer-evidence requirement for 230 census blocks the Bureau initially determined to be unserved, 131 of which are in CenturyLink areas.⁵² In addition to WaveDivision’s general policy-based objection to the customer-evidence requirement, WaveDivision argues a waiver is justified in part because the census blocks “are very rural areas with a low population density per census block” and “many of these census blocks are in areas where the income level is quite low.”⁵³ WaveDivision’s waiver petition provides no further detail about the particular population densities or income levels in these census blocks. CenturyLink’s analysis of the census blocks for which WaveDivision sought waivers revealed that, although there are fewer households in the census blocks for which WaveDivision sought waivers, there was no statistically significant difference in customer density or per capita incomes, when compared to blocks WaveDivision

⁵² WaveDivision Waiver Petition at 2; Gordon Decl. at ¶ 13.

⁵³ WaveDivision Waiver Petition at 4.

asserted it served without seeking a waiver.⁵⁴ The data therefore fail to support WaveDivision's contention that it faces special income- or density-based barriers in the census blocks where it has no current or former customers.

Accordingly, WaveDivision's waiver should be denied, and the Bureau should not reclassify as "served" any census blocks for which WaveDivision cannot provide evidence of at least one current or former broadband or voice customer.

II. THE BUREAU SHOULD REJECT THE FOLLOWING CHALLENGES THAT FAIL TO PROVIDE A PLAUSIBLE BASIS FOR FINDING THAT A CENSUS BLOCK IS SERVED.

A. Allen's TV Cable Service, Inc

Allen's TV challenges 12 census blocks in Louisiana for which CenturyLink would be eligible for CAF Phase II support. Allen's TV provides only a factual statement to support its challenge. In making its challenge Allen's TV has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof but seeks a waiver of that evidentiary requirement. With respect to CenturyLink, all of the census blocks that Allen's TV is challenging are in the first category.

Insufficient evidence of a current or former customer in each challenged census block.

In its factual statement Allen's TV asserts that it has at least one current or former customer in each challenged census block. But, Allen's TV does not provide any other evidence to support this statement. And, CenturyLink's own evidence reflects that nine of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. This evidence demonstrates that Allen's TV does not have voice customers in

⁵⁴ Gordon Decl. at ¶ 13.

these census blocks, and may not have broadband customers in these census blocks either. And, because Allen's TV has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that Allen's TV has failed to demonstrate that it has a current or former customer in each challenged census block.

B. All West/Utah, Inc.

The Bureau removed one census block from All West/Utah, Inc.'s ("All West") challenge prior to releasing the list of census block for which challengers had made a prima facie challenge that those census block should be deemed served and thus ineligible for CAF Phase II support.⁵⁵ Remaining in All West's challenge are eight census blocks in Utah that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. All West only provides a brief factual statement to support its challenge. CenturyLink submits that All West has failed to sustain its challenge because it has not demonstrated that its broadband services meet the Bureau's latency and price requirements or that it has a current or former customer in each census block.

No proof of meeting the latency and price requirements. All West's factual statement fails to address latency and the price of All West's services. Accordingly, All West has not demonstrated that the challenged census blocks are served by broadband service meeting the Bureau's requirements and its challenge should be denied.

No proof of a current or former customer in each challenged census block. All West also does not state in its factual statement that it has a current customer or had a former customer in each of the challenged census blocks. Instead the factual statement states only that All West serves a service location in each of the census blocks. All West does not provide any documents

⁵⁵ *Phase II Challenge Response PN* at 3 n.13.

that show that All West has current or former customers in any of the challenged census blocks. All West's challenge should also be denied for this reason.

C. Amplex Electric, Inc.

Amplex challenges 75 census blocks in Ohio for which CenturyLink would be eligible for CAF Phase II support. Amplex provides only a factual statement to support its challenge. CenturyLink submits that Amplex's challenge should not be sustained because Amplex has not sufficiently demonstrated that it has a current or former customer in each challenged census block.

Insufficient evidence of a current or former customer in each challenged census block.

In its factual statement Amplex asserts that it has at least one current or former customer in each challenged census block. But, Amplex does not provide any other evidence to support this statement. And, CenturyLink's own evidence reflects that 62 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. See Exhibit 6. This evidence demonstrates that Amplex does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because Amplex has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that Amplex has failed to demonstrate that it has a current or former customer in each challenged census block.

D. Armstrong Utilities

Armstrong challenges 167 census blocks on Ohio and Pennsylvania for which CenturyLink would be eligible for CAF Phase II support. In making its challenge Armstrong has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof but seeks a

waiver of that evidentiary requirement. With respect to CenturyLink, Armstrong challenges 66 census blocks in the first category and 101 census blocks in the second category.

Armstrong has not demonstrated that a waiver of the customer evidentiary requirement is warranted. As discussed above, CenturyLink is challenging all of the 101 census blocks for which Armstrong has sought an evidentiary waiver since it cannot demonstrate that it has a current or former customer in those census blocks.

No proof of a current or former customer in each challenged census block.

Additionally, CenturyLink is challenging 104 of the census blocks because these census blocks failed the address validation test as reflected in Exhibit 7, included with this filing. For these 104 census blocks, Armstrong's website returned information that it did not provide broadband service to any location in the census block. Of these census blocks, 32 are census blocks for which Armstrong stated it had proof of a current or former customer, and 72 are census blocks for which Armstrong stated it had facilities and could reasonably serve a customer. Its website, however, an important portal through which it offers its services to customers, reflects that no service is available to consumer locations in these census blocks. As such, given this contradictory evidence, Armstrong has not demonstrated that it is more likely than not that it provides service to customers in these census blocks or that it has a current or former customer in these census blocks. Armstrong's challenge to these 104 census blocks should be denied.

E. Atlantic Broadband

The Bureau significantly modified Atlantic Broadband's challenge prior to releasing the list of census blocks for which challengers had made a prima facie challenge that those census block should be deemed served and thus ineligible for CAF Phase II support.⁵⁶ With respect to

⁵⁶ *Phase II Challenge Response PN* at 2-3, nn. 10-13.

the census blocks remaining from Atlantic Broadband's challenge there are 124 census blocks in Pennsylvania for which CenturyLink would be eligible for CAF Phase II support. CenturyLink submits that Atlantic Broadband's challenge should not be sustained because Atlantic Broadband has not sufficiently demonstrated that it has a customer in each challenged census block and has not demonstrated the price of its voice service.

No proof of a current or former customer in each challenged census block. Atlantic Broadband states that it has a customer in each of the challenged census blocks and provides a list which reflects the number of customers it has in each census block by broadband service plan. The list itself is nothing more than an additional unverifiable factual statement. There is no way for the Bureau or a responding company to verify that this list accurately reflects current Atlantic Broadband customers in the challenged census blocks. Meanwhile, CenturyLink's GeoResults data reflects that for 88 of these census blocks there is no evidence of another provider with voice customers. This evidence demonstrates that Atlantic Broadband does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because Atlantic Broadband has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that Atlantic Broadband has failed to demonstrate that it has a current or former customer in each challenged census block.

No proof that its voice service meets the pricing requirement. Additionally, Atlantic Broadband has failed to state whether it is providing voice service in the challenged blocks at a price that is below the benchmark price of \$46.96. As such it has not demonstrated that its voice service in the challenged census blocks meet the requisite criteria to sustain its challenge. The challenge should be denied.

F. BEK Communications Cooperative

The Bureau removed four census blocks from BEK's challenge prior to releasing the list of census blocks for which challengers had made a prima facie challenge that those census block should be deemed served and thus ineligible for CAF Phase II support.⁵⁷ Remaining in BEK's challenge are 152 census blocks in North Dakota that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, BEK submits customer bills under protective order, service maps, marketing materials describing BEK's services, and a residential order form. BEK's challenge should not be sustained because the company fails to demonstrate that its broadband service meets the Bureau's usage and latency requirements and BEK, by its own admission, does not have a current or former customer in several of the challenged census blocks.

No proof of meeting the usage and latency requirements. BEK's marketing materials and residential order form indicates that BEK offers broadband service with speeds of 100 Mbps downstream and 10 Mbps upstream for \$45, but these materials are devoid of information with respect to usage and latency. BEK has not otherwise addressed usage and latency in any of the other materials it provided publicly. To the extent that BEK may have included such information in its submission of confidential information, CenturyLink submits that such action is an inappropriate use of the rules permitting filing of confidential information. Further, BEK has not filed a disclosure statement indicating that it has filed such information confidentially as instructed by the Bureau.⁵⁸ Accordingly, BEK has not demonstrated that this broadband service

⁵⁷ *Phase II Challenge Response PN* at 3 n.13.

⁵⁸ *A Basic Guide to the Connect America Phase II Challenge Process (Updated 7/31/14)* at 10 (available at <http://www.fcc.gov/encyclopedia/connect-america-phase-ii-challenge-process>) ("*Basic Guide*").

meets the Bureau's latency and usage allowance requirements and therefore BEK's challenge should be denied.

No proof of a current or former customer in each challenged census block. For a subset of the challenged census blocks, BEK asserts that it has a current customer and submits customer bills in support. However, these bills have been redacted in their entirety for public inspection and therefore CenturyLink cannot confirm whether BEK does in fact have a customer in each of these census blocks. For 48 of the census blocks, BEK acknowledges that it has no current customers, but claims the blocks are capable of being served in the future. That there may be a *future* customer in the census block does not satisfy the Bureau's evidentiary requirement that a census block have a *current* or *former* customer to be deemed served. Further, BEK has not sought a waiver of that evidentiary requirement. Accordingly, BEK's challenge to these census blocks should also be denied for this reason.

Subsidized Provider. Still further, on the Prima Facie Unserved-to-Served Challenges list, BEK is identified as a subsidized competitor for all of these challenged census blocks. In the documents BEK has made publicly available BEK does not address whether it is or is not a subsidized competitor. In the absence of disputing its identified status as a subsidized competitor, BEK's challenge should fail because it has not demonstrated that it is an unsubsidized competitor.

G. Chariton Valley Telecom Corporation

Chariton Valley Telecom Corporation ("Chariton Valley") challenges 25 census blocks in Missouri that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, Chariton Valley provides a list of "customers served," a screenshot of its website listing prices for telephone and internet services, and a factual statement. CenturyLink submits that Chariton Valley has failed to sustain its

challenge because it has not demonstrated that it has a current or former customer in each census block.

No proof of a current or former customer in each challenged census block. Chariton Valley has provided a list of “customers served,” but the factual statement does not state that Chariton Valley has a current or former customer in each of the challenged census blocks. The “customers served” list does not include the street number for each address so it is impossible for CenturyLink or the Bureau to verify whether Chariton Valley serves a customer in each of the challenged census blocks.

H. Charter Communications

Charter challenges 26 census blocks in Alabama, Michigan, Minnesota, Missouri, Montana, North Carolina, Nebraska, Oregon, Washington, Wisconsin, and Wyoming for which CenturyLink would be eligible for CAF Phase II support. In making its challenge Charter has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof but seeks a waiver of that evidentiary requirement. With respect to CenturyLink, Charter challenges 20 census blocks in the first category and 11 census blocks in the second category. CenturyLink is challenging 13 of the census blocks for which Charter states it has a current or former customer and all of the 11 census blocks for which Charter has sought an evidentiary waiver since it cannot demonstrate that it has a current or former customer in those census blocks.

Charter has not demonstrated that a waiver of the customer evidentiary requirement is warranted. As discussed above, CenturyLink is challenging all of the census blocks for which Charter has sought an evidentiary waiver.

No proof of a current or former customer in each challenged census block.

Additionally, CenturyLink is challenging 21 of the census blocks because these census blocks

failed the address validation test as reflected in Exhibit 7, included with this filing. For these 21 census blocks, Charter’s website returned information that it did not provide broadband service to any location in the census block. Of these census blocks, 13 are census blocks for which Charter stated it had proof of a current or former customer, and 8 are census blocks for which Charter stated it had facilities and could reasonably serve a customer. In its challenge, Charter attempts to discredit its web tool, stating that it is intended as a marketing tool and is less accurate than Charter’s billing and engineering data in identifying where Charter has service.⁵⁹ Nevertheless, its website is an important portal through which it offers its services to customers, and that website reflects that no service is available to consumer locations in these census blocks. The Bureau made clear that whether a provider is “offering” service in a block is determined based on whether a consumer “would reasonably believe that she could order voice and broadband service from the provider at her address,”⁶⁰ and thus “[i]f a provider’s subscription tool reports that service is unavailable for every address in a given census block, that would be strong evidence that the provider is not offering service in the census block, and thus does not serve the census block.”⁶¹ Because a reasonable customer using Charter’s online address validation tool would believe no service is available in these blocks, Charter should not be considered to be “offering” service in these blocks. Accordingly, Charter has not sufficiently demonstrated that it is more likely than not that it offers service to customers in these census blocks or that it has a current or former customer in these census blocks. Charter’s challenge to these 21 census blocks should be denied.

⁵⁹ See Charter Factual Statement at n.3.

⁶⁰ *Phase II Challenge Process Guidance PN*, 29 FCC Rcd at 7507.

⁶¹ *Id.* at 7508-09.

I. Co-Mo Comm, Inc. dba Co-Mo Connect

Co-Mo Connect challenges 551 census blocks in Missouri that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. Co-Mo Connect provides a factual statement, coverage map, and flyer providing information about the company's internet, television, and telephone offerings to support its challenge. CenturyLink submits that Co-Mo Connect has failed to sustain its challenge because it has not demonstrated that it is a provider of voice service or that it has a current or former customer in each census block.

No proof that Co-Mo Connect is a provider of voice service. Co-Mo Connect states in its factual statement that it provides voice service in the challenged census blocks through its “phone partner” Big River Telephone. In order to qualify as a provider of voice service for purposes of the CAF Phase II challenge process, an unsubsidized provider must offer their own voice service. The Bureau has explained that this can be done if a broadband provider provides voice through an affiliated local exchange company.⁶² In examining Co-Mo Connect's and Big River Telephone's websites, CenturyLink has been unable to find any affiliate link between the companies. Big River Telephone does not appear to be Co-Mo Connect's affiliate such that Co-Mo Connect could be considered to be providing voice service. The Bureau has also explained that voice service can be provided “using a managed voice solution obtained from a third party vendor . . . so long as the broadband provider is the entity responsible for dealing with any customer problems, and it provides quality of service guarantees to end user customers.”⁶³

⁶² *Phase II Challenge Process Order — Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7211, 7215 ¶9 & n.21 (Wireline Comp. Bur. rel. May 16, 2013) (“*Phase II Challenge Process Order*”).

⁶³ *Id.* at 7215 n.21.

But, in reviewing Co-Mo Connect’s documents submitted with its Form 505, there is nothing that identifies whether it is Co-Mo-Connect or Big River Telephone that deals with the customer problems or provides the service quality guarantees for the phone service. Instead, there is only a statement under “Telephone” on the Co-Mo Connect flyer that says “VOIP service provided by Big River Telephone.” This suggests that the company is simply reselling an over-the-top VoIP service provided by Big River Telephone. The Bureau has explained that simply reselling an over-the-top VOIP service is unlikely to be sufficient for providing voice service.⁶⁴ This is insufficient to qualify Co-Mo Connect as a provider of voice service as required by the Bureau.

No proof of a current or former customer in each challenged census block. Co-Mo Connect does not state that it has a current customer or former customer in each of the challenged census blocks. Instead, Co-Mo Connect asserts only that service is “available” in all of the challenged census blocks. Further, Co-Mo Connect provides no documents that show that it has current or former customers in any of the census blocks challenged. As such, Co-Mo Connect has provided no evidence that it has a current or former customer in each of the challenged census blocks. Given this complete lack of evidence, Co-Mo Connect’s challenge should also be denied for failure to meet the Bureau’s customer evidentiary requirement.

J. Consolidated Communications Networks, Inc.

Consolidated Communications Networks, Inc. (“Consolidated”) challenges 282 census blocks in North Dakota that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. The only evidence Consolidated submits to support its challenge is a factual statement that states, “Consolidated is an unsubsidized provider and the census blocks listed in Form 505 are served with voice and broadband meeting the Federal

⁶⁴ *Id.* at 7215 ¶9 & n.21.

Communications Commission’s performance and pricing criteria.” CenturyLink submits that Consolidated has failed to make the evidentiary showing necessary to support its challenge that it provides the requisite voice and broadband service in each challenged census block.

No proof of meeting the voice, pricing, speed, usage, and latency requirements for broadband service. CenturyLink submits that Consolidated’s vague factual statement unsupported by any documentation is insufficient to demonstrate that Consolidated provides voice service and meets the FCC’s pricing, speed, usage allowance, and latency requirements for broadband service.

No proof of a current or former customer in each challenged census block. Consolidated neither asserts nor provides any documents that show that it has current or former customers in any of the census blocks challenged. As such, Consolidated has provided no evidence that it has a current or former customer in each of the challenged census blocks. Given this complete lack of evidence, Consolidated’s challenge should also be denied for failure to meet the Bureau’s customer evidentiary requirement.

K. Cox Communications

Cox Communications (“Cox”) challenges 441 census blocks in Arizona, Florida, Iowa, Kansas, Louisiana, Nebraska and Nevada for which CenturyLink would be eligible for CAF Phase II support. In making its challenge Cox has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof, but seeks a waiver of that evidentiary requirement. With respect to CenturyLink, Cox challenges 302 census blocks in the first category and 139 census blocks in the second category.

Subsidized Provider. CenturyLink challenges the 11 census blocks that Cox has asserted it serves in Louisiana, but for which it also acknowledges it is a “subsidized” competitor. Cox

does not meet the definition of “unsubsidized competitor” in these census blocks, and a waiver is not warranted where the earliest phase out of the support is more than a year away and could be further pushed out. If providers want to meet the definition of “unsubsidized competitor” they should relinquish their support prior to commencement of CAF Phase II and make a commitment to continue to provide the requisite broadband and voice services for the duration of the initial CAF Phase II period.

No proof of a current or former customer in each challenged census block. For the reasons discussed above, CenturyLink is also challenging all of the 139 census blocks for which Cox has sought an evidentiary waiver because Cox cannot demonstrate that it has a current or former customer in those census blocks.

L. CTC Telecom, Inc. dba Mosaic Telecom

Mosaic Telecom (“Mosaic”) challenges 16 census blocks in Wisconsin that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support.⁶⁵ Mosaic provides a factual statement, promotional material advertising its internet service, and service area maps to support its challenge. The FCC should deny Mosaic’s challenge for all of the census blocks because the company has failed to demonstrate that its broadband service meets the Bureau’s pricing and latency requirements or that it has a current or former customer in each of the challenged census blocks.

No proof of meeting the pricing and latency requirements. Mosaic’s factual statement asserts that the company offers high speed internet access in excess of 4 Mbps downstream and 2 Mbps upstream. Mosaic’s promotional material indicates that the company charges \$67.95 for

⁶⁵ Mosaic also attempted to challenge another 152 census blocks where Mosaic admitted that it does not have a former or current customer, but the Bureau already denied that portion of Mosaic’s challenge. *Phase II Challenge Response PN* at 3 n.17.

broadband service with speeds of up to 4 Mbps and 100 GB of Internet usage. This price exceeds the Bureau's interim benchmark and Mosaic does not otherwise assert that this price is reasonably comparable to prices in urban areas. Moreover, neither Mosaic's factual statement nor promotional material addresses latency. Accordingly, Mosaic's challenge should be denied with respect to all of the challenged census blocks because the company fails to demonstrate that its broadband service meets the Bureau's pricing and latency requirements.

Insufficient proof of a current or former customer in each challenged census block.

Mosaic also fails to demonstrate that it has a current or former customer in each of the challenged census blocks. Mosaic states that it has 29 customers in the challenged census blocks, but it provides no other evidence that it has a current or former customer in each challenged census block. This statement alone should not be sufficient to establish that Mosaic has a current or former customer in each challenged census block. And, CenturyLink's own evidence reflects that 12 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. See Exhibit 6. This evidence demonstrates that Mosaic does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because Mosaic has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that Mosaic has failed to demonstrate that it has a current or former customer in each challenged census block.

M. Heart of Iowa Ventures, LLC

Heart of Iowa Ventures, LLC ("Iowa Ventures") challenges 16 census blocks in Iowa that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. Iowa Ventures's evidence consists of a short factual statement, a map without a

description of what it depicts, a list of census blocks and addresses, and brochures describing Iowa Ventures's services. CenturyLink submits that Iowa Ventures has failed to sufficiently demonstrate that it provides the requisite broadband service in each challenged census block to sustain its challenge.

No proof of meeting the pricing, speed, usage, and latency requirements. Iowa Ventures does not assert in its factual statement that its broadband service in each of the challenged census blocks meets the Bureau's pricing, speed, usage, and latency requirements. Instead of addressing these requirements, Iowa Ventures vaguely states that it "has the capability to provide both voice and broadband greater than the FCC's standards to 218 customers overall, while serving 97 customers in the census blocks listed in the FCC Form 505." In addition, Iowa Ventures's brochures do not identify a broadband service that meets the Bureau's criteria. Accordingly, Iowa Ventures's challenge should be denied.

Subsidized Competitor. Still further, on the Prima Facie Unserved-to-Served Challenges list, Iowa Ventures is identified as a subsidized competitor for all of these challenged census blocks. In its challenge Iowa Ventures does not address whether it is or is not a subsidized competitor. In the absence of disputing its identified status as a subsidized competitor, Iowa Ventures's challenge should fail because it has not demonstrated that it is an unsubsidized competitor.

N. JAB Wireless

JAB Wireless (JAB) challenges 352 census blocks in Colorado, Iowa, Idaho, Illinois, Kansas, Minnesota, Nebraska, South Dakota, Texas, Utah, and Wisconsin for which CenturyLink would be eligible for CAF II support. JAB has submitted a factual statement, a list of customer addresses, website screen shots, and Form 499As to support its challenge. Nevertheless, CenturyLink responds that none of these challenged census blocks should be

deemed served because JAB has failed to demonstrate that it is providing the requisite voice service or that it has a current or former customer in each census block.

Insufficient proof of the requisite voice service. As reflected in Exhibit Nos. 2, 4, and 5, CenturyLink was unable to find evidence that confirmed that JAB is providing the requisite voice service in the challenged census blocks. CenturyLink was unable to locate evidence that JAB provides voice service at all in so far as CenturyLink could not find a Form 477 filing that indicated that JAB provides voice service in the states of the challenged census blocks, could not locate JAB in the ALI database for the requisite counties, and could not find a 2013 CPNI certification for JAB. Further, CenturyLink's own evidence reflects that 263 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink.⁶⁶ Still further, to the extent that JAB is providing voice service, the terms and conditions for that service disclaim reliable 911 service.⁶⁷ As such, CenturyLink disputes that JAB is providing sufficient voice service in each of the census blocks it is challenging.

Insufficient proof of a current or former customer in each challenged census block. In its factual statement JAB only states that it "offers" voice and broadband service in the challenged census blocks. JAB describes Exhibit A as "a list of JAB broadband customer accounts, with partially redacted address, that are within the challenged census blocks." While that list is extensive it does not verifiably demonstrate that JAB has a current or former customer in each challenged census block. The reason is that in partially redacting the street number of each address, it becomes difficult, if not impossible, to confirm that the remaining portion of the address is in a specific census block. Many streets go through multiple census blocks, as is

⁶⁶ See Exhibit 6

⁶⁷ See Exhibit 11.

readily apparent in looking at the redacted list. For example, “4xx E 2nd St S Exline IA 525558039” is identified on the list as being in both census blocks 190079505001045 and 190079505001060. In turn, the list fails to demonstrate that JAB has a current or former customer in each challenged census block. In the absence of either an express statement that JAB has a current or former customer in each challenged census block or a verifiable list of customer addresses, JAB has not shown that it has a current or former customer in each challenged census block.

O. Mid-Rivers Telephone Cooperative

Mid-Rivers Telephone Cooperative, Inc. (“Mid-Rivers”) challenges 214 census blocks in Montana for which CenturyLink would be eligible for CAF II support.⁶⁸ CenturyLink responds that none of these census blocks should be deemed served because (1) Mid-Rivers has failed to demonstrate that it provides broadband or voice service to at least one customer in each census block and (2) Mid-Rivers is a subsidized competitor and has failed to demonstrate that it should be deemed an “unsubsidized competitor” for this challenge process.

Insufficient proof of a current or former customer in each challenged census block.

Mid-Rivers has not provided sufficient evidence that it has a current or former customer of its broadband or voice service in each challenged census block. First, a careful review of its two factual statements reveals that nowhere does Mid-Rivers explicitly state that it has a current or former customer in each challenged census block. Instead it states only that it is providing broadband, voice and/or cable television service “throughout these 218 blocks.”⁶⁹ Television

⁶⁸ Mid-Rivers’s challenge consists of 218 census blocks identified as being in CenturyLink’s territory, but CenturyLink has subsequently determined that four of the challenged census blocks are not in our service territory.

⁶⁹ Mid-Rivers Exhibit 3 at 1.

service is irrelevant to the showing required to demonstrate that a challenger is providing the requisite broadband and voice services. Mid-Rivers also provides a list entitled “Service Currently Being Provided in Challenged Blocks” which it describes as “subscriber billing records” and asserts is evidence of its service to customers in the challenged census blocks.⁷⁰ A review of the list, however, reveals that it does not demonstrate that Mid-Rivers has a current or former customer in each challenged census block. First, the list only covers 64 census blocks out of the 218 challenged census blocks. Second, the list does not provide customer addresses, but instead only provides the telephone prefix and exchange which as evident in the list itself, are not unique to specific census blocks. The list does not verifiably demonstrate that Mid-Rivers has customers in the census blocks identified on the list. Mid-Rivers also includes three letters from customers that state that Mid-Rivers provides them broadband service. The letters include addresses that one could verify to be in the three identified census blocks, but the letters are all from business customers, which fails to demonstrate that Mid-Rivers is providing service to residential customers. Because, Mid-Rivers has wholly failed to demonstrate that it has current or former residential customers in any of the 218 census blocks it has challenged, its entire challenge should fail.

Insufficient proof of ILEC rate-of-return area. Mid-Rivers has also stated that based on their mapping of the challenged census blocks that “at least five” are entirely within their ILEC rate-of-return areas. Mid-Rivers, Exhibit 1. But, Mid-Rivers does not precisely identify to which census blocks it is referring.⁷¹ CenturyLink has determined that four of Mid-Rivers’s

⁷⁰ Mid-Rivers Exhibits 3 & 4.

⁷¹ In Mid-River’s service list there are parenthetical “rate-of-return” references for three census blocks: 300210001001060; 300210002001004; 301090001001041.

census blocks are not within CenturyLink’s territory and thus those census blocks are not included on CenturyLink’s response Form 505.

Subsidized Competitor. Additionally, Mid-Rivers acknowledges that it is a CLEC that is classified as a “subsidized competitor”, and asks that the Commission exercise its discretion to treat the census blocks as served and ineligible for CAF Phase II support.⁷² CenturyLink submits that Mid-Rivers has failed to sufficiently demonstrate that it meets the definition of an “unsubsidized competitor” or that a waiver of the definition of “unsubsidized competitor” is warranted in this instance. As the Bureau has explained “[t]he Commission’s intent in adopting [the unsubsidized competitor] rule was to preclude support to areas where voice and broadband is available without burdening the federal support mechanisms.”⁷³ The Bureau has explained that it will consider challenges to the definition of “unsubsidized competitor” from ‘any competitive eligible telecommunications carrier that otherwise meets or exceeds the performance obligations . . . and whose high-cost support is scheduled to be eliminated during the five-year term of Phase II.’⁷⁴ Additionally, in its guide to the Phase II challenge process the FCC instructs that CETCs challenging their “subsidized” status should “state when its support is scheduled to be phased down to \$0.”⁷⁵ Mid-Rivers has not stated the nature of the high-cost support it receives or when that support is scheduled to be fully eliminated. As such, Mid-Rivers has not met its burden to demonstrate that it does or will meet the definition of “unsubsidized competitor.”

⁷² Mid-Rivers Exhibit 3.

⁷³ *Phase II Service Obligations Order — Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 15060, 15077 ¶ 41 (Wireline Comp. Bur. rel. Oct. 31, 2013).

⁷⁴ *Id.* (emphasis added), (citation omitted).

⁷⁵ *Basic Guide* at 5.

Further, there should also be another consideration, and that is the extent to which the subsidized competitor, once it loses its high-cost support will be able to maintain the requisite voice and broadband services to customers in the absence of that support. If it cannot do so, then there is no one that is providing the requisite voice and broadband services, and the fundamental purposes of universal service are not being achieved. Where an unsubsidized competitor sufficiently demonstrates that it is offering the requisite broadband and voice services and is providing, or has provided, broadband or voice service to at least one customer in each challenged census block, the Commission has a reasonable basis to believe that the unsubsidized competitor will continue to offer those services for years to come. But where a subsidized competitor is losing support, there is a question as to whether that competitor will be able to maintain those services without that support. A subsidized competitor ought to provide some evidence that it will continue to provide the requisite broadband and voice services in the challenged census blocks once its support ceases. In this case, Mid-Rivers has not provided any statement as to when its high-cost support is schedule to be eliminated, if at all, or its plans for future service in the absence of high-cost support. Under these circumstances, Mid-Rivers has not provided sufficient information to justify its consideration as an “unsubsidized competitor,” and its challenge should be denied on this basis.

P. Mobius Communications Company

Mobius challenges 20 census blocks in Nebraska that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. Mobius also appends a challenge to an additional 30 census blocks where Mobius does not have a former or current customer.

To supports its challenge, Mobius provides a factual statement, documents from the Nebraska Public Service Commission awarding Mobius funding for broadband deployment, a

service map, and a screen shot from Mobius's website explaining the company's internet services. CenturyLink submits that Mobius has failed to sustain its challenge because not only has Mobius failed to demonstrate that it provides the requisite broadband service, but the company also fails to demonstrate that it has a current or former customer in each challenged census block.

No proof of meeting pricing, speed, usage, and latency requirements. Mobius's factual statement asserts that the company "provides both voice and broadband in excess of the FCC's minimum public interest quality standards," but does not specifically address the requisite pricing, speed, usage, and latency requirements. Mobius's website also does not provide information about a broadband service package that meets the Bureau's requirements.

According to the advertising materials provided, the company offers a broadband service of 5 Mbps for \$60. This service might meet the speed requirement, but the advertising does not provide an upstream speed, and thus it is not established that Mobius's service meets the speed requirement. It is offered at \$60, but with no information about usage allowance, it cannot be determined whether this price meets the pricing requirement, and Mobius has provided no other information regarding its broadband service pricing. Additionally, there is no mention of latency requirements. Accordingly, Mobius has not demonstrated that it offers a broadband service that would qualify the challenged census blocks to be deemed served and its challenge should be denied for this reason.

Insufficient proof of a current or former customer in each challenged census block. Mobius also fails to demonstrate that it has a current or former customer in each of the challenged census blocks. For the 20 census blocks for which Mobius asserts that it has current customers, it does not offer any customer information or other supporting documentation.

Mobius also appends a challenge to an additional 30 census blocks where Mobius does not have a former or current customer, but Mobius did not list these blocks in its Form 505, nor did the Bureau include these blocks on its list of blocks for which a party has made a *prima facie* showing that the block should be ineligible for Phase II funding. Accordingly, for the reasons discussed above, these blocks may not be reclassified as “served” based on Mobius’s filing.

Q. Rural Telephone Service Co., Inc dba Nex-Tech & Nex-Tech, Inc.

Nex-Tech challenges 169 census blocks in Kansas that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge Nex-Tech provides two brief factual statements, coverage maps, and company brochures providing information regarding its phone and internet service. CenturyLink submits that Nex-Tech has failed to sufficiently demonstrate that it provides the requisite voice and broadband service in each challenged census block to sustain its challenge. Nex-Tech has not demonstrated that it has a current or former customer in each census block.

Insufficient proof of broadband speed. In both of the virtually identical factual statements the declarants state that Nex-Tech offers broadband speeds of at least 4 Mbps downstream and 1 Mbps upstream (4/1) in the challenged census blocks. In CenturyLink’s review of Nex-Tech’s website, however, there is only reference to broadband speeds of up to 3 Mbps downstream and 768 kbps upstream (3/768).⁷⁶ Further, use of Nex-Tech’s website tool to request service revealed that 4/1 service was not available in areas within the challenged census blocks. For example, when internet service was requested that required at least 4/1 service in Hoisington, Kansas, the website tool responded that it could not deliver 4/1 service but to

⁷⁶ See Exhibit 8.

consider its 3/768 service instead.⁷⁷ As such, CenturyLink disputes that Nex-Tech is offering a service with speeds of at least 4/1 in the challenged census blocks.

No proof of a current or former customer in each challenged census block. Nex-Tech does not state that it has a current customer or had a former customer in each of the challenged census blocks. Instead the two virtually identical factual statements state only that Nex-Tech is “offering” voice and broadband service to customers in the challenged census blocks. Further, Nex-Tech provides no documents that show that Nex-Tech has current or former customers in any of the census blocks challenged.

Subsidized provider. Still further, on the Prima Facie Unserved-to-Served Challenges list, Nex-Tech is identified as a subsidized competitor for all of these challenged census blocks. But, nowhere in the documents Nex-Tech has provided does it address whether it is or is not a subsidized competitor. In the absence of disputing its identified status as a subsidized competitor, Nex-Tech’s challenge should fail because it is not an unsubsidized competitor.

R. Nittany Media, Inc.

Nittany Media, Inc. (“Nittany Media”) challenges 367 census blocks in Pennsylvania that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, Nittany Media provides a factual statement, a list of customer addresses, and a screenshot of its website listing its services. CenturyLink submits that Nittany Media has failed to sustain its challenge because it has not demonstrated that it provides voice service, broadband speeds of at least 4 Mbps downstream and 1 Mbps upstream, or that it has a current or former customer in each challenged census block.

⁷⁷ See Exhibit 8.

Insufficient proof that Nittany Media is a provider of voice service. Nittany Media states in its factual statement that it offers phone service through a contractual arrangement with Keystone Broadband, LLC. Nittany Media does not assert that Keystone Broadband, LLC is an affiliate such that Nittany Media could be considered to be a voice service provider. The screenshot of Nittany Media’s website lists the company as providing “Keystone Broadband Digital Voice” service. Thus, it appears that Nittany Media is reselling an over-the-top VoIP service provided by Keystone Broadband, LLC. As discussed with respect to Co-Mo Connect above, this is insufficient to qualify Nittany Media as a provider of voice service as required by the Bureau and therefore the company’s challenge should be denied.

No proof of meeting the speed requirement. Nittany Media certifies that the broadband service it offers for \$59.99 has speeds of 3 Mbps downstream and 768 kbps upstream. While the FCC assumed that speeds of 3 Mbps downstream and 768 kbps upstream were sufficient for purposes of assembling the initial list of census blocks eligible for Phase II support, the Bureau established a requirement that a broadband provider must offer speeds of at least 4 Mbps downstream and 1 Mbps upstream in order for the census block to be deemed served. CenturyLink submits that Nittany Media has not demonstrated that its broadband service meets the Bureau’s speed requirement and therefore the company’s challenge should also be denied for this reason.

No proof of a current or former customer in each challenged census block. Nittany Media does not state that it has a current customer or had a former customer in each of the challenged census blocks. For certain challenged census blocks Nittany Media’s Form 505 states that the type of supporting evidence is “customer addresses in census blocks w/tag numbers.” Presumably, the list containing census block numbers, addresses, and tag numbers provided with

the filing is the referenced evidence of Nittany customer addresses, but this is not well expressed. For other challenged census blocks, the Form 505 states, “Block is served by NMI, customer address N/A as Census Block” and “Customer address data cannot be matched with Census Block.” Accordingly, it appears that Nittany Media cannot demonstrate that it has a current or former customer in those census blocks and therefore the company’s challenge to those census blocks should also be denied for this reason.

S. Odessa Office Equipment

Odessa Office Equipment (“Odessa”) challenges 124 census blocks in Washington that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, Odessa provides a factual statement, coverage map, a screenshot from the National Broadband Map, and a screenshot of its website listing prices for its services. CenturyLink submits that Odessa has failed to sufficiently demonstrate that it provides the requisite broadband service in each challenged census block to sustain its challenge. Odessa has not demonstrated that it offers at least one service with a minimum usage allowance of at least 100 GB per month at a price that is reasonably comparable to similar wireline services in urban areas. Additionally, CenturyLink disputes that Odessa is providing the requisite voice service throughout the challenged census blocks.

No proof of meeting the pricing or usage allowance requirement. The factual statement does not state that Odessa offers a service package that meets the Bureau’s minimum usage allowance requirement at a price that is reasonably comparable to pricing for similar services in urban areas. Odessa states that it applies monthly usage thresholds across all its service plans, but does not identify what service with what pricing and what usage allowance meets the broadband service criteria. The screenshot from Odessa’s website also fails to provide that information, and CenturyLink was similarly unable to locate sufficient pricing or usage language

on Odessa's website.⁷⁸ Accordingly, Odessa has not demonstrated that it offers broadband service that meets the pricing and usage allowance requirements. The FCC should deny Odessa's challenge.

Insufficient proof of the requisite voice service. In its factual statement Odessa clearly states that it provides voice service in the challenged census blocks, and the screen shot of its web page reflects residential VoIP service for \$30. But, as reflected in Exhibits 2-5, CenturyLink was unable to find other evidence that confirmed that Odessa is providing the requisite voice service in the challenged census blocks. CenturyLink was unable to locate evidence that Odessa provides voice service at all in so far as CenturyLink could not find a Form 477 filing that indicated that Odessa provides voice service in Washington, could not locate Odessa in the ALI database for the requisite counties, could not find a 2013 CPNI certification for Odessa, and could not find a 2014 1st quarter Form 499-Q for Odessa. Further, CenturyLink's own evidence reflects that 106 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink.⁷⁹ As such, CenturyLink disputes that Odessa is providing sufficient voice service in each of the census blocks it is challenging.

T. Ranch Wireless

Ranch Wireless ("Ranch") challenges nine census blocks in Texas that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. As support for its challenge, Ranch provides a factual statement, a screenshot of Ranch's coverage map, a screenshot of a map from Ranch's Powercode management server, screenshots

⁷⁸ See Exhibits 9 & 10.

⁷⁹ See Exhibit 6.

of Ranch's website showing the company's voice and broadband offerings, a spreadsheet showing Ranch's customers and corresponding census blocks, and a copy of Ranch's FCC Form 499. CenturyLink submits that Ranch cannot sustain its challenge because Ranch has not demonstrated that prices for its broadband services are reasonably comparable to prices for similar services in urban areas.

No proof of meeting the pricing requirement. Ranch's factual statement and supporting documentation indicates that the price for its broadband service that meets the Bureau's speed, usage allowance, and latency requirements is \$69.95. Ranch asserts that this price is "reasonably comparable to the pricing for similar broadband service in nearby urban areas." However, Ranch has not provided information pertaining to the urban rate for similar broadband services and Ranch's price exceeds the Bureau's interim benchmark of \$60. Accordingly, Ranch's challenge should be denied.

U. Rural Broadband Network Services, LLC

Rural Broadband Network Services, LLC ("RBNS") dba High Speed Link challenges 205 census blocks in Virginia that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, RBNS provides a factual statement, a screenshot from the National Broadband Map, a company advertisement providing information regarding its phone and internet service, and screen shots from the company's website. CenturyLink submits that RBNS has failed to demonstrate that its broadband service meets the pricing requirement to sustain its challenge. Additionally, CenturyLink disputes that RBNS is providing the requisite voice service throughout the challenged census blocks.

No proof of meeting the pricing requirement; insufficient proof of meeting the speed requirement. The factual statement states that the non-promotional price for broadband exceeds

the interim benchmark of \$60, although the service exceeds the Bureau's speed and usage allowance requirements. Additionally, as reflected in Exhibits 8 & 10, in reviewing RBNS's website, CenturyLink cannot find any information to confirm that RBNS has at least a 4/1 service – because only download speeds are referenced on the website – that is available at a price and with a usage allowance that meets the established criteria. As such, CenturyLink submits that RBNS has failed to show that a consumer would be able to purchase at least one plan that meets or exceeds all the minimum performance criteria that complies with the pricing requirement, and therefore RBNS cannot sustain its challenge.

Insufficient proof of the requisite voice service. In its factual statement RBNS clearly states that it provides voice service in the challenged census blocks, and a screen shot of its web page reflects phone service. But, as reflected in Exhibits 2-5, CenturyLink was unable to find other evidence that confirmed that RBNS is providing the requisite voice service in the challenged census blocks. CenturyLink was unable to locate evidence that RBNS provides voice service in so far as CenturyLink could not find a Form 477 filing that indicated that RBNS provides voice service in Virginia, could not locate RBNS in the ALI database for the requisite counties, could not find a 2013 CPNI certification for RBNS, and could not find a 2014 1st quarter Form 499-Q for RBNS. Further, CenturyLink's own evidence reflects that 188 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink.⁸⁰ As such, CenturyLink disputes that RBNS is providing voice service in each of the census blocks it is challenging.

⁸⁰ See Exhibit 6.

V. Shenandoah Cable Television

Shenandoah challenges 21 census blocks in Virginia and West Virginia that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. For 10 of these census blocks, Shenandoah has requested a waiver from the Bureau's requirement that a census block have a current or former customer to be considered served.

To support its challenge, Shenandoah submits a factual statement and, for census blocks for which Shenandoah claims it has customers, redacted customer bills. Shenandoah's challenge should not be sustained because it has failed to demonstrate that it provides the requisite voice and broadband services at prices that are reasonably comparable to prices for similar services in an urban area. Moreover, Shenandoah has not demonstrated special circumstances justifying a waiver and has not demonstrated that it has a current or former customer in each of the challenged census blocks.

No proof of meeting the pricing requirement. Shenandoah asserts in its factual statements that its prices for voice service and broadband service are "reasonably comparable" to rates in urban areas. However, Shenandoah does not provide any information about prices in nearby urban areas to support this claim. Shenandoah also does not provide evidence that its price for voice service are below \$46.96 and its price for broadband service meeting the Bureau's requirements is below the interim benchmark of \$60. Accordingly, Shenandoah's challenges should be denied.

Shenandoah has not demonstrated that a waiver of the customer evidentiary requirement is warranted. For ten census blocks Shenandoah has asserted that it has no current or former customers and has requested a waiver of this evidentiary requirement. For the reasons set out in Section I, Shenandoah's challenge of these census blocks should also fail because it has not demonstrated that it has a former or current customer in each of these census blocks.

Insufficient proof of a current or former customer in each challenged census block.

For those census blocks for which Shenandoah did not seek a waiver, Shenandoah asserts in its factual statement that it has a current or former customer and submits redacted customer bills as supporting evidence. These customer bills are so heavily redacted that it is impossible to verify whether these customer locations are in challenged census blocks and whether Shenandoah has provided a customer bill for each census block. Accordingly, CenturyLink submits that Shenandoah has not demonstrated that it has a current or former customer in each of these census blocks and therefore its challenge should be denied.

W. Sightline Wireless LLC

Sightline Wireless LLC (“Sightline”) challenges 177 census blocks in Oregon that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, Sightline provides a factual statement, screenshots of its website listing the company’s services, and the results of a speed test. Sightline also filed a service area map under protective order. CenturyLink submits that Sightline has failed to sufficiently demonstrate that it provides the requisite broadband and voice service and has a current or former customer in each challenged census block to sustain its challenge.

No proof that Sightline’s services meet the latency and usage criteria. Sightline’s factual statement and website screenshot explain that the company’s “gold plan” provides speeds of 4 Mbps downstream and 1 Mbps upstream for \$49.99. Sightline’s factual statement does not assert that this package also meets the Bureau’s latency and usage criteria. Sightline provides the results of a speed test that was performed at a single client’s location that indicates that the latency was 26 ms with corresponding speeds of 10.04 Mbps downstream and 2.92 Mbps upstream. However, Sightline does not assert that this measurement pertains to Sightline’s gold plan, which provides slower download and upload speeds. Sightline’s website screenshot

indicates that the gold plan provides “200GB Monthly Transfer,” however the company does not assert that this “monthly transfer” satisfies the minimum usage allowance. Accordingly, Sightline’s challenge should be denied because it has failed to demonstrate that it provides the requisite broadband service.

Insufficient proof of the requisite voice service. In its factual statement Sightline clearly states that it provides voice service in the challenged census blocks, and a screen shot of its web page reflects phone service. But, as reflected in Exhibits 2-5, CenturyLink was unable to find other evidence that confirmed that Sightline is providing the requisite voice service in the challenged census blocks. CenturyLink was unable to locate evidence that Sightline provides voice service in so far as CenturyLink could not find a Form 477 filing that indicated that Sightline provides voice service in Oregon, could not locate Sightline in the ALI database for the requisite counties, could not find a 2013 CPNI certification for Sightline, and could not find a 2014 1st quarter Form 499-Q for Sightline. Further, CenturyLink’s own evidence reflects that 126 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink.⁸¹ As such, CenturyLink disputes that Sightline is providing voice service in each of the census blocks it is challenging.

No proof of a current or former customer in each challenged census block. Sightline does not state that it has a current customer or former customer in each of the challenged census blocks. Instead the factual statement states only that Sightline “provide[s] well over the required service to all the census blocks.” Further, Sightline provides no customer address information or other documentation that shows that Sightline has current or former customers in any of the census blocks challenged. Sightline’s challenge should also be denied for this reason.

⁸¹ See Exhibit 6.

X. Socket Telecom LLC

Socket Telecom LLC (“Socket”) challenges five census blocks in Missouri that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. Socket provides a factual statement and a coverage map to support its challenge. CenturyLink submits that Socket has failed to sustain its challenge because it has not sufficiently demonstrated that it provides the requisite broadband service at a price that is reasonably comparable to prices for similar services in an urban area and has not demonstrated that it has a current or former customer in the challenged census blocks.

No proof of meeting the pricing requirement. Socket asserts in its factual statement that its prices for broadband services in the challenged census blocks are the same as those in Fulton, Missouri which is “less rural” and that these prices are comparable to the prices charged by other providers in urban areas. However, Socket’s website indicates that the price for broadband service that meets the FCC’s criteria is \$70, which is not below the Bureau’s interim benchmark of \$60. CenturyLink submits that Socket’s challenge should be denied for failure to demonstrate that it provides the requisite broadband service.

No proof of a current or former customer in each challenged census block. Socket does not state that it has a current customer or former customer in each of the challenged census blocks. Instead Socket asserts that it either has current customers or is “capable” of providing services to new customers. Therefore, there are some census blocks for which Socket does not have a current or former customer. Moreover, Socket does not provide any customer address information or other documentation to support its assertion that it has current customers in some of the challenged census blocks. Socket’s challenge should also be denied for failure to meet the Bureau’s customer evidentiary requirement.

Y. Suddenlink Communications

Suddenlink challenges 402 census blocks in Arkansas, Arizona, Louisiana, Missouri, North Carolina, New Mexico, and Texas for which CenturyLink would be eligible for CAF Phase II support. In making its challenge Suddenlink has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof but seeks a waiver of that evidentiary requirement. With respect to CenturyLink, Suddenlink challenges 194 census blocks in the first category and 208 census blocks in the second category.

Insufficient proof of a current or former customer in each challenged census block.

Suddenlink states that it has a current or former customer in each of the census blocks identified on its Form 505-1. Suddenlink also provides a list of customer addresses. But, Suddenlink's additional proof of a list of customer addresses does not suffice to demonstrate that Suddenlink has a customer in each identified census block. This is because in redacting the street number of each address, it becomes difficult, if not impossible, to confirm that the remaining portion of the address is in a specific census block. Many streets go through multiple census blocks, as is readily apparent in looking at the redacted list. In turn, the list fails to demonstrate that Suddenlink has a current or former customer in each challenged census block on its Form 505-1. Still further, CenturyLink's own evidence reflects that 155 of the non-waiver challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. This evidence demonstrates that Suddenlink does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because Suddenlink has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that Suddenlink has failed to demonstrate that it has a current or former customer in each challenged census block.

Additionally, CenturyLink is challenging 2 of the census blocks because these census blocks failed the address validation test as reflected in Exhibit 7, included with this filing. For these 2 census blocks, Suddenlink's website returned information that it did not provide broadband service to any location in the census block. Both of these census blocks are census blocks for which Suddenlink stated it had proof of a current or former customer. Its website, however, an important portal through which it offers its services to customers, reflects that no service is available to consumer locations in these census blocks. As such, given this contradictory evidence, Suddenlink has not demonstrated that it is more likely than not that it provides service to customers in these census blocks or that it has a current or former customer in these census blocks. Suddenlink's challenge to these 2 census blocks should be denied.

Suddenlink has not demonstrated that a waiver of the customer evidentiary requirement is warranted. As discussed above, CenturyLink is challenging all of the census blocks for which Suddenlink has sought an evidentiary waiver.

Z. TransWorld Network Corp.

TransWorld Network Corp. (TransWorld) challenges 25 census blocks in Arizona, Indiana, and New Mexico that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. TransWorld provides only a factual statement and a list of census blocks in which it has customers. CenturyLink submits that TransWorld has not provided sufficient evidence that it provides voice service in each challenged census block or that it has a current or former customer in each challenged census block.

Insufficient proof of the requisite voice service. In its factual statement TransWorld states that it offers voice service. But, as reflected in Exhibit 5, CenturyLink was unable to find other evidence that confirmed that TransWorld is providing the requisite voice service in the challenged census blocks. CenturyLink could not locate TransWorld in the ALI database for the

requisite counties. Further, CenturyLink’s own evidence reflects that 22 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink.⁸² Still further, to the extent that TransWorld is providing voice service, the terms and conditions for that service disclaim reliable 911 service.⁸³ As such, CenturyLink disputes that TransWorld is providing sufficient voice service in each of the census blocks it is challenging.

Insufficient proof of a current or former customer in each challenged census block.

TransWorld states that it has a current or former customer in each of the challenged census blocks. TransWorld also provides a list of the challenged census blocks which purports to be a list that reflects the number of customers it has in each challenged census block. The number reflected for each census block is identified as either “greater than five” or “less than or equal to five.” CenturyLink submits that these statements alone should not be sufficient to demonstrate that TransWorld has a current or former customer in each challenged census block.

AA. Troy Cablevision

The Bureau removed two census blocks from Troy Cablevision’s (“Troy”) challenge prior to releasing the list of census block for which challengers had made a prima facie challenge that those census block should be deemed served and thus ineligible for CAF Phase II support.⁸⁴ Remaining in Troy’s challenge are 472 census blocks in five counties in Alabama that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. CenturyLink submits that Troy has failed to demonstrate that it provides the requisite broadband and voice service in the requisite census blocks because (1) it has not demonstrated

⁸² See Exhibit 6.

⁸³ See Exhibit 11.

⁸⁴ *Phase II Challenge Response PN* at 3 n.13.

that the broadband service it provides is at the requisite speed, usage, latency and price requirements, (2) it has not demonstrated that it has a current or former customer in each census block challenged, and (3) it is a subsidized competitor that has not requested modification of the “unsubsidized competitor” requirement.

No proof of meeting the speed, usage, latency, and price requirements. Troy’s factual statement only addresses the broadband criteria of speed and states that Troy “offers 3 Mbps/768 kbps or greater internet service to customers” in the challenged census blocks. To sustain a challenge, an unsubsidized competitor must provide at least 4 Mbps/1 Mbps service. Additionally, neither the brief factual statement nor any of the additional documents provided by Troy address the usage limits, latency or price of the broadband service or services it provides in the challenged census blocks. In failing to address these components of providing the requisite broadband service, Troy has failed to demonstrate that it provides the requisite broadband service in each challenged census block. Troy’s challenge should fail on this basis alone.

Insufficient proof of a current or former customer in each challenged census block. Additionally, however, Troy does not affirmatively state that it provides broadband or voice service to at least one current or former customer in each challenged census block. Troy provides many customer bills, but does not provide a customer bill for each census block challenged.⁸⁵ This is an additional basis to determine that Troy has not sustained its challenge for any census block in which it has not provided a customer bill.

⁸⁵ Troy appears to have provided some type of record for each census block it is challenging. But, many of those records appear to be internal tool screen shots of addresses passed, but not necessarily *customer* locations. CenturyLink’s review identified at least 54 census blocks for which Troy did not provide a customer bill.

Subsidized Competitor. Still further, on the Prima Facie Unserved-to-Served Challenges list, Troy is identified as a subsidized competitor for all of these challenged census blocks. But, nowhere in the documents Troy has provided does Troy address whether it is or is not a subsidized competitor. In the absence of disputing its identified status as a subsidized competitor, Troy's challenge should fail because it is not an unsubsidized competitor.

BB. United Services, Inc.

United Services, Inc. ("United") challenges 466 census blocks in Missouri that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. United submits a factual statement and a network map to support its challenge. CenturyLink submits that United has failed to sustain its challenge because it has failed to demonstrate that its prices are reasonably comparable to pricing for similar services in urban areas or that it has a current or former customer in each of the challenged census blocks.

No proof of meeting the pricing requirement. United asserts in its factual statement that its prices are "reasonably comparable" to prices for services in urban areas. However, United does not provide any pricing information, either about its own prices or the prices for services in urban areas, to support this claim. For example, United does not provide evidence that its price for voice service is below \$46.96 and its price for broadband is below the interim benchmark of \$60. Accordingly, United has not demonstrated that it provides the requisite broadband service and its challenge should be denied for this reason.

Insufficient proof of a current or former customer in each challenged census block.

The Bureau has already denied United's request for a waiver of the customer evidentiary requirement for 466 census blocks because United did not provide any evidence of special

circumstances justifying a waiver.⁸⁶ CenturyLink submits that for the challenged census blocks for which United did not seek a waiver it has still failed to demonstrate that it has a current or former customer in each census block. According to its disclosure statement United has reflected on its Form 505 the census blocks in which it has customers as those that it is “currently serving.”⁸⁷ United also provides a map that color codes the challenged census blocks into those in which United has customers and those in which it does not. These statements and map are not sufficient to demonstrate that United is serving a current or former customer in these challenged census blocks. CenturyLink’s own evidence reflects that 284 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. This evidence demonstrates that United does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because United has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that United has failed to demonstrate that it has a current or former customer in each challenged census block.

CC. Vyve Broadband

Vyve challenges 280 census blocks in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, Tennessee, and Wyoming for which CenturyLink would be eligible for CAF Phase II support. In making its challenge Vyve has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof but seeks a waiver of that evidentiary requirement. With respect to CenturyLink,

⁸⁶ *Phase II Challenge Response PN* at 3 n. 17.

⁸⁷ United Disclosure Statement.

Vyve challenges 153 census blocks in the first category and 127 census blocks in the second category.

Vyve has not demonstrated that a waiver of the customer evidentiary requirement is warranted. As discussed above, CenturyLink is challenging all of the 127 census blocks for which Vyve has sought an evidentiary waiver since it cannot demonstrate that it has a current or former customer in those census blocks.

Insufficient proof of a current or former customer in each challenged census block.

Vyve states that it has a current or former customer in each of the census blocks identified on its Form 505-1. Vyve also provides a list of customer addresses. But, Vyve's additional proof of a list of customer addresses does not suffice to demonstrate that Vyve has a customer in each identified census block. This is because in redacting the street number of each address, it becomes difficult, if not impossible, to confirm that the remaining portion of the address is in a specific census block. Many streets go through multiple census blocks, as is readily apparent in looking at the redacted list. In turn, the list fails to demonstrate that Vyve has a current or former customer in each challenged census block on its Form 505-1. Still further, CenturyLink's own evidence reflects that 153 of the non-waiver challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. This evidence demonstrates that Vyve does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because Vyve has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that Vyve has failed to demonstrate that it has a current or former customer in each challenged census block.

DD. Washington Broadband, Inc.

Washington Broadband, Inc. (“Washington Broadband”) challenges 563 census blocks in Washington that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge, Washington Broadband submits a factual statement, a screenshot from the National Broadband Map, a screenshot from its website providing pricing information for the company’s services, and a coverage map. CenturyLink submits that Washington Broadband has failed to sustain its challenge because it has not sufficiently demonstrated that it offers voice service throughout the challenged census blocks or has a current or former customer in each census block.

Insufficient proof of the requisite voice service. In its factual statement Washington Broadband states that it “recently began offering voice through reselling [the] services of its affiliated CLEC Washington Telco, LLC.”⁸⁸ But, as reflected in Exhibits 2-5 & 12, CenturyLink was unable to find other evidence that confirmed that Washington Broadband is providing the requisite voice service in the challenged census blocks. In reviewing Washington Broadband’s website CenturyLink could find no mention of voice services. CenturyLink was unable to locate evidence that Washington Broadband provides voice service in so far as CenturyLink could not find a Form 477 filing that indicated that Washington Broadband provides voice service in Washington, could not locate Washington Broadband in the ALI database for the requisite counties, could not find a 2013 CPNI certification for Washington Broadband, and could not find a 2014 1st quarter Form 499-Q for Washington Broadband. Further, CenturyLink’s own evidence reflects that 448 of the challenged census blocks do not have customer locations

⁸⁸ Washington Broadband Factual Statement.

receiving voice service from a provider other than CenturyLink.⁸⁹ As such, CenturyLink disputes that Washington Broadband is providing voice service in each of the census blocks it is challenging.

No proof of a current or former customer in each challenged census block. Although Washington Broadband’s factual statement asserts that the company “already has, or previously had, customers in each of the [challenged census blocks],” it does not provide any customer addresses or bills to support this claim. The only supporting documentation is a map that indicates the “service area” and areas where Washington Broadband “expect[s] to add customers.” This map does not support Washington Broadband’s claim that it has current or former customers in each of the challenged census blocks. Accordingly, Washington Broadband’s challenge should be denied for failure to meet the Bureau’s customer evidentiary requirement.

EE. WaveDivision Holdings

WaveDivision challenges 173 census blocks in Oregon and Washington for which CenturyLink would be eligible for CAF Phase II support. In making its challenge WaveDivision has divided its challenged census blocks into two categories: (1) those for which it has proof of a current or former customer, and (2) those for which it does not have such proof but seeks a waiver of that evidentiary requirement. With respect to CenturyLink, WaveDivision challenges 44 census blocks in the first category and 129 census blocks in the second category.

WaveDivision has not demonstrated that a waiver of the customer evidentiary requirement is warranted. As discussed above, CenturyLink is challenging all of the 129 census

⁸⁹ See Exhibit 6.

blocks for which WaveDivision has sought an evidentiary waiver since it cannot demonstrate that it has a current or former customer in those census blocks.

Insufficient proof of a current or former customer in each challenged census block.

WaveDivision states that it has a current or former customer in each of the census blocks identified on its Form 505-1. WaveDivision also provides a list of customer addresses. But, WaveDivision's additional proof of a list of customer addresses does not suffice to demonstrate that WaveDivision has a customer in each identified census block. This is because in redacting the street number of each address, it becomes difficult, if not impossible, to confirm that the remaining portion of the address is in a specific census block. Many streets go through multiple census blocks, as is readily apparent in looking at the redacted list. In turn, the list fails to demonstrate that WaveDivision has a current or former customer in each challenged census block on its Form 505-1. Still further, CenturyLink's own evidence reflects that all 44 of the non-waiver challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. See Exhibit 6. This evidence demonstrates that WaveDivision does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, because WaveDivision has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, CenturyLink submits that WaveDivision has failed to demonstrate that it has a current or former customer in each challenged census block.

FF. West Carolina Communications, LLC

West Carolina Communications, LLC ("WCC") challenges two census blocks in South Carolina that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. To support its challenge WCC submits two brief factual statements and redacted customer bills. CenturyLink submits that WCC has failed to make the evidentiary

showing necessary to support its challenge that it provides the requisite broadband service in each challenged census block.

No proof of meeting pricing, speed, usage, and latency requirements. WCC asserts in a factual statement only that it provides voice and broadband services “meeting the [FCC’s] performance and pricing criteria” to the challenged census blocks. CenturyLink submits that WCC’s vague factual statement unsupported by any documentation is insufficient to demonstrate that WCC meets the FCC’s pricing, speed, usage allowance, and latency requirements. Accordingly, WCC’s challenge should be denied.

GG. Winnebago Cooperative Telephone Association

Winnebago Cooperative Telephone Association (Winnebago) challenges 124 census blocks in Iowa that the FCC has identified as census blocks for which CenturyLink would be eligible for CAF Phase II support. Winnebago appears to have filed only customer bills, which it filed confidentially, and advertising materials to support its challenge.⁹⁰ CenturyLink submits that Winnebago has failed to sustain its challenge because it has not demonstrated that it provides the requisite broadband service or that it has a current or former customer in each challenged census block.

No proof of meeting pricing, speed, usage, and latency requirements. Winnebago has not stated or otherwise demonstrated that it meets the usage or latency requirements. Winnebago has not provided a factual statement and its advertising materials do not address usage allowances or latency of its broadband service offerings. Additionally, while the advertising

⁹⁰ CenturyLink could not find the advertising materials that Winnebago referenced in its Form 505 as supporting evidence, but has assumed for purposes of this response that they are the same as the advertising material Winnebago has recently submitted in response to Windstream’s opening challenge.

materials reference download speeds, they do not state upload speeds and thus do not demonstrate that any of the advertised services meet the speed requirement. In turn, in the absence of complete information regarding service speeds and usage limits, Winnebago has also failed to demonstrate that it meets the broadband pricing requirements. As such, Winnebago's challenge should be denied for failure to demonstrate that it provides the requisite broadband service throughout the challenged census blocks.

No proof of a current or former customer in each challenged census block.

Additionally, Winnebago has made no statement that it serves a current or former customer in each challenged census block. Further, CenturyLink's own evidence reflects that 28 of the challenged census blocks do not have customer locations receiving voice service from a provider other than CenturyLink. See Exhibit 6. This evidence demonstrates that Winnebago does not have voice customers in these census blocks, and may not have broadband customers in these census blocks either. And, to the extent that Winnebago has not provided a customer bill that reflects voice or broadband service for an address in each challenged census block, Winnebago has failed to demonstrate that it has a current or former customer in each challenged census block.

Respectfully submitted,

CENTURYLINK

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