



Brett Kilbourne
Vice President and Deputy General Counsel
Direct Line: 202.833.6807
E-mail: brett.kilbourne@utc.org

May 29, 2015

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

Ex Parte

Re: Notice of Ex Parte Presentation, WC Docket No. 10-90 and WC Docket No. 14-93.

Dear Ms. Dortch:

This is to notify you pursuant to Section 1.1206 of the Commission's Rules and in connection with the above-referenced proceedings that on May 27, 2015 the following utility participants along with the undersigned from the Utilities Telecom Council ("UTC") met with Amy Bender from the Office of Commissioner O'Rielly:

Ken Johnson, CEO, Co-Mo Electric Cooperative, Tipton, Missouri
Randy Klindt, General Manager, Co-Mo Connect, Tipton, Missouri
Darren Farnan, Chief Development Officer, United Services, Inc. Maryville, Missouri
Hamid Vahdatipour, CEO, Lake Region Technology & Communications, LLC

During the meeting, the utility participants discussed the pending Application for Review that was filed by Co-Mo Comm, Inc. ("Co-Mo") and United Services, Inc. ("United")¹, as well as the pending Petition for Reconsideration that was filed by Lake Region Technology & Communications, LLC ("Lake Region")² – both of which were filed against the Bureau's *Challenge Order*³.

With regard to the Application for Review, the representatives from Co-Mo and United explained how they manage the voice services that they provide to their customers, and how these voice services qualify under the FCC's rules for purposes of the Connect America Fund. The representatives from Co-Mo and United also explained how their broadband services that they provide to customers in these areas are reasonably comparable to the services that are offered in urban areas – and in fact far exceed the minimum broadband speeds and are offered at prices that are far lower than the rates for similar services in urban areas. They also explained how they have deployed network assets and have customers in the census blocks that were challenged, and that denying their challenges will likely result in CenturyLink using CAF funding to overbuild Co-Mo and United's networks – contrary to the Commission Rules and policy that prohibit funding areas that are already served by an unsubsidized provider of broadband and voice services. Contrary to CenturyLink, Co-Mo and United explained that the Commission should consider this information, which was provided in order to correct mischaracterizations made on the record

¹ Application for Review of Co-Mo Comm, Inc. and United Services, Inc. in WC Docket No. 10-90 and WC Docket No. 14-93 (filed Apr. 29, 2015).

² Petition for Reconsideration of Lake Region Technologies, Inc. in WC Docket No. 10-90 and WC Docket No. 14-93 (filed Apr. 29, 2015).

³ *Connect America Fund*, Order, WC Docket No. 10-90 and WC Docket No. 14-93, DA 15-383 (Wireline Competition Bureau, Mar. 30, 2015)(hereinafter "*Challenge Order*").

by CenturyLink and which led the Bureau to deny the challenges by Co-Mo and United.⁴ As such, Co-Mo and United reiterated the request that they made in their Application for Review that the Commission grant their challenges and find that the census blocks are served with voice and broadband and hence are ineligible for funding under the Connect America Fund.

With regard to the Petition for Reconsideration, the representatives from Lake Region and UTC explained that the Bureau should *not* have granted certain challenges filed by Vyve Broadband A, LLC (“Vyve”) in 22 census blocks in Oklahoma. Lake Region and UTC explained that Vyve does not serve these census blocks, which Vyve itself admitted when it requested a waiver of the Commission’s requirement that it provide evidence of current or former customers in these areas. Further, the Bureau denied Vyve’s waiver request, which should have led to a denial of Vyve’s challenge for failure to make a *prima facie* case, but the challenge was somehow granted by the Bureau anyway.⁵ Finally, Lake Region and UTC explained that Vyve’s own website indicates that many of the zip codes corresponding to these census blocks are unserved by Vyve, and that the Bureau should therefore have denied Vyve’s challenge.⁶ Moreover, Lake Region explained that granting the challenges will result in preventing Lake Region from receiving CAF funding for several rural broadband experiment projects in areas where Lake Region was provisionally selected as the winning bidder. This will prevent these areas from receiving broadband services from Lake Region that would provide download and upload speeds of at least 25/5 mbps. For all of these reasons, Lake Region and UTC reiterated that the Commission should reverse the Bureau’s decision in the *Challenge Order* and deny the challenges by Vyve in the 22 census blocks in Oklahoma.

Thank you for your help in this matter. If there are any questions concerning this matter, please let me know.

Respectfully,



Brett Kilbourne

cc via electronic mail:
FCC Participants
Counsel for CenturyLink
Counsel for Vyve Broadband A, LLC

⁴ See CenturyLink Opposition in WC Docket No. 10-90 and WC Docket No. 14-93 at 6 (arguing that “an Application for Review is not to be used to provide new facts or raise new legal issues before the full Commission that were not presented to the Bureau,” and that “this is especially the case here where the Bureau made it abundantly clear that parties to the challenge process would have one opportunity to present their evidence that census blocks were either served or unserved.”)

⁵ *Challenge Order* at ¶27.

⁶ According to Vyve’s website, service is unavailable in the following zip codes corresponding to the following census blocks: 74464 (census block 400219778001060), 74451 (census blocks 400219783002090, 400219783003005, 400219783003018, 400219783003037, 400219783004075, 400219783004113, 400219783002122, and 400219777001048); and 74441 (census block 400219777001048, 400219777001051, 400219777002021, 400219777002057, 400219777002077, 400219777002090, 400219777003027, 400219777004099, 400219777004138, 400219777004143, 400219777004170, 400219777002063). See <https://vyvebroadband.com/>.