

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

**In the Matter of**

**Connect America Fund**

**Determination of Rate-of-Return Study  
Areas 100 Percent Overlapped by  
Unsubsidized Competitors**

WC Docket 10-90

DA 15-868

**COMMENTS OF  
WAVEDIVISION HOLDINGS, LLC**

WaveDivision Holdings, LLC (“Wave”), by undersigned counsel, hereby submits these comments in response to the Wireline Competition Bureau’s (“Bureau”) Public Notice seeking comment on its preliminary determination of rate-of-return study areas which are 100% overlapped by an unsubsidized competitor, DA 15-868 (“Public Notice”), in the above-captioned proceedings.

As explained below, and in the accompanying declaration, Wave currently offers fixed voice and broadband service which satisfy the speed, latency, usage and comparable rate benchmarks established by the Commission to all locations within the blocks reported on its Form 477 reports, and which overlap the service areas of Gervais Telephone Company, and Canby Telephone Association. Accordingly, the Bureau should make a final determination that the affected study area is 100% overlapped and served by an unsubsidized competitor, and therefore eliminate the high-cost support directed to the rate of return carriers in such areas.

Wave is a leading cable broadband provider that has deployed technologically advanced systems in Washington, Oregon and California to deliver a suite of voice, video and broadband services. Specifically, the company is a facilities-based provider of residential fixed voice and fixed broadband service. At the same time, the company does not receive high-cost support. Thus, Wave qualifies as an “unsubsidized competitor” under Commission rules.

Wave is offering to all of the locations in the 131 census blocks in Study Areas 532373 (currently served by Gervais Telephone Company) and 532386 (currently served by Canby Telephone Association), and which are identified in the Commission’s overlap database as served by Wave,<sup>1</sup> voice and broadband service which satisfy the speed, latency, usage and comparable rate benchmarks established by the Commission. Specifically, Wave is offering fixed voice service at rates below the 2015 reasonable comparability benchmark of \$47.48.

Wave’s broadband service is provided at actual download speeds of at least 10 Mbps and actual upload speeds of at least 1 Mbps. The broadband service is provided with a minimum usage allowance of at least 100 GB/month; at a roundtrip latency of 100 ms or less; and at a price that is reasonably comparable to rates in urban areas. Further, in each of these blocks Wave: has deployed voice and broadband-capable physical assets in such block(s); holds itself out to the public as offering a service; and, is willing and able to provide service to a requesting customer within seven to ten business days without an extraordinary commitment of resources. The facts set forth in these comments are affirmed by the accompanying Declaration of James A. Penney, Executive Vice President – Business and Legal Affairs at Wave.

The Commission has previously recognized that directing subsidies to incumbent providers in those areas where unsubsidized competitors have deployed voice and broadband

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<sup>1</sup> The one hundred thirty-one census blocks at issue are identified in the Commission’s database available at <https://www.fcc.gov/maps/100pct-overlap-map> (showing census block overlap data for WaveDivision networks in SACs 532373 and 532386).

capable networks is a waste of resources, conflicts with the Commission's goals of competitive neutrality, and has the potential to undermine incentives for competitive providers to make significant network investments (supported by private capital) in such areas.<sup>2</sup> The Bureau should therefore take this opportunity to affirm Commission goals by eliminating all high-cost support to Gervais Telephone Company and Canby Telephone Association for the Study Area locations which are 100% overlapped by those areas where Wave offers voice and broadband service as an unsubsidized competitor.

For the reasons set forth herein, Wave respectfully requests that the Bureau make a final determination that the census blocks and locations identified as served by Wave in the Commission's records be treated as 100% overlap and served by an unsubsidized competitor, and therefore eliminate the high-cost support directed to Smart City in such areas.

Respectfully,



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*On behalf of Wave Division Holdings, LLC*

August 28, 2015

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<sup>2</sup> *Connect America Fund et al.*, WC Docket Nos. 10-90, Report and Order, 26 FCC Rcd 17663, 17766-68, paras. 280-84 (2011).

## **DECLARATION**

### **In support of Comments of WaveDivision Holdings, LLC WC Docket No. 10-90; DA 15-868**

I, James A. Penney, Executive Vice President - Business and Legal Affairs, at WaveDivision Holdings, LLC ("Wave") provide this declaration in support of Wave's comments showing that Wave currently offers fixed voice and broadband service to all locations within the blocks reported on its Form 477 reports, and which overlap the service areas of Gervais Telephone Company and Canby Telephone Association.

I have direct knowledge of the facts set forth in this statement as the result of my responsibilities as Executive Vice President - Business and Legal Affairs at Wave. I certify to the accuracy of this information, to the best of my knowledge.

In the census blocks identified by the Commission's overlap map<sup>1</sup> in Study Areas 532373 and 532386, Wave is offering to all of the locations reported on the Form 477 which overlap these Study Areas voice and broadband service which satisfy the speed, latency, usage and comparable rate benchmarks established by the Commission. Specifically, Wave is offering fixed voice service at rates below the 2015 reasonable comparability benchmark of \$47.48.

In addition, Wave's broadband service is provided at actual download speeds of at least 10 Mbps and actual upload speeds of at least 1 Mbps. The broadband service is provided with a minimum usage allowance of at least 100 GB/month; at a roundtrip latency of 100 ms or less; and at a price that is reasonably comparable to rates in urban areas. Further, in each of these blocks Wave: has deployed voice and broadband-capable physical assets in such block(s); holds itself out to the public as offering a service; and, is willing and able to provide service to a

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<sup>1</sup> The Commission's overlap map and supporting database are available at <https://www.fcc.gov/maps/100pct-overlap-map>.

requesting customer within seven to ten business days without an extraordinary commitment of resources.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 28<sup>th</sup> day of August, 2015.

  
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James A. Penney  
Executive Vice President - Business and Legal Affairs