

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

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

REPLY COMMENTS OF SMART CITY TELECOMMUNICATIONS LLC

Smart City Telecommunications LLC d/b/a Smart City Telecom (“Smart City Telecom”) hereby submits these reply comments in response to the comments submitted in the above-captioned proceeding with regard to the *Public Notice* issued by the Wireline Competition Bureau (“Bureau”) adopting a methodology to determine rate-of-return carrier study areas subject to 100 percent overlap and publishing a preliminary list of such study areas.¹

I. THERE IS NO DISPUTE THAT SMART CITY TELECOM’S STUDY AREA DOES NOT MEET THE 100% OVERLAP TEST.

In the *Public Notice*, the Bureau explained that it seeks to determine “whether [an] unsubsidized competitor is offering fixed broadband and voice service in accordance with the Commission’s service obligations for universal service to *all* locations within the blocks reported on Form 477 and which overlap the study area.” *Public Notice*, para. 19 (emphasis in original).

As Smart City Telecom showed in its initial comments, the Bureau’s preliminary list indicated the following potential unsubsidized competitors within Smart City Telecom’s study area:

¹ See Wireline Competition Bureau Publishes Preliminary Determination of Rate-of-Return Study Areas 100 Percent Overlapped by Unsubsidized Competitors, WC Docket No. 10-90, *Public Notice*, DA 15-868 (rel. July 29, 2015) (“*Public Notice*”).

Provider	All blocks	Blocks w/ housing units
Brevard Wireless	691	149
Bright House	18	17
Comcast	77	68
Orlando Telephone	5	3

Smart City Telecom submitted with its comments a statement from Brevard Wireless affirmatively acknowledging that it does not offer fixed residential broadband and voice services to all locations within the study area.² Comcast and Bright House submitted comments claiming that they do provide certain services within the study area (although there are flaws in both of their submissions, as discussed in the following sections), while no evidence was submitted with respect to Orlando Telephone. But, even assuming for the sake of argument that Bright House, Comcast, and Orlando Telephone actually did offer the required services to every location within the census blocks they respectively claim, they would cover only 96 census blocks, of which only 84 contain housing units.³ That leaves 595 census blocks, including 65 blocks that contain housing units, without any provider claiming to offer the requisite services to qualify as an unsubsidized provider.

Accordingly, regardless of what, if any, credence the Bureau gives to the Comcast and Bright House submissions, the evidence does not permit a finding that unsubsidized competitors currently offer service to all locations within the Smart City Telecom study area.

² Comments of Smart City Telecom, WC Docket No. 10-90 (filed Aug. 28, 2015) (“Smart City Telecom Comments”).

³ Some census blocks are listed as served by more than one of Bright House, Comcast, and Orlando Telephone.

II. COMCAST DOES NOT PROVIDE VOICE SERVICE IN THE SMART CITY TELECOM STUDY AREA.

The *USF/ICC Transformation Order* specifically defines an unsubsidized competitor as “a facilities-based provider of residential fixed *voice and broadband* service that does not receive high-cost support.”⁴ In its letter to the Commission filed on August 28, 2015, Comcast affirms that “it provides *broadband* service that satisfies the Commission’s performance standards in each census block that the Bureau identified Comcast as serving,” although not necessarily to every location within every census block.⁵ However, the Comcast letter conspicuously does not say anything about providing voice service.⁶ Therefore, on its face, the Comcast letter does not purport to establish that Comcast meets the definition of an unsubsidized competitor, either in Smart City’s study area or in any of the other study areas referred to in that letter.

The evidence Smart City Telecom submitted in its comments shows without any doubt that Comcast is not offering voice service in the Smart City Telecom study area. Comcast regularly reports to Smart City Telecom the number of revenue generating units utilizing the cable network in that study area, and to date Comcast has never reported any units that include voice subscribers.⁷ Moreover, Smart City Telecom compiled a list of all residential addresses in 68 census blocks in which Comcast was listed as an unsubsidized competitor, and entered every one of these 4,409 addresses (of which 84 turned out to be duplicates) into the Comcast service availability tool. The Comcast service availability tool did not report even one address in the

⁴ *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, para. 282 (2011) (emphasis supplied) (“*USF/ICC Transformation Order*”).

⁵ Comments of Comcast Corporation, WC Docket No. 10-90 (filed Aug. 28, 2015) (“Comcast Letter”) (emphasis added).

⁶ *See* Comcast Letter.

⁷ Smart City Telecom Comments at 7.

study area as having voice service available.⁸ Smart City Telecom also found that it has *never* ported a single telephone number to Comcast.⁹

In summary, there is no evidence that Comcast offers voice service to *any* residential address in the 68 census blocks of Celebration, Florida, in which Comcast was listed as an unsubsidized competitor. Smart City Telecom agrees that Comcast does provide cable television and Internet services in Celebration, but the 100 percent overlap standard specifically requires that residential voice service also be offered. Because Comcast does not provide voice service in accordance with the Commission’s service obligations in the study area, Comcast should not be considered an unsubsidized competitor in determining 100 percent overlap.

III. BRIGHT HOUSE DOES NOT MEET THE 100 PERCENT OVERLAP STANDARD.

In its comments, Bright House Networks (“Bright House” or “BHN”) encourages the Bureau to eliminate high-cost support to Smart City Telecom for “study area locations which are 100% overlapped by those areas where BHN operates as an unsubsidized competitor.”¹⁰ However, Bright House only claims to show a *partial* overlap. According to the supporting data issued by the Bureau,¹¹ Smart City Telecom’s study area contains 691 census blocks, of which 149 contain housing units.¹² Bright House only claims to offer voice and broadband service to

⁸ *Id.*

⁹ *Id.*

¹⁰ Comments of Bright House Networks, WC Docket No. 10-90, at 3 (filed Aug. 28, 2015) (“Bright House Comments”).

¹¹ 100% Overlap Map, FEDERAL COMMUNICATIONS COMMISSION, <https://www.fcc.gov/maps/100pct-overlap-map> (last visited August 16, 2015) (“100% Overlap Map”).

¹² As explained in the *Public Notice*, para. 7, this total includes some census blocks that straddle the study area boundary, and therefore include some areas outside of the Smart City study area.

eighteen (18) of the census blocks in the Smart City Telecom study area.¹³ Even if Bright House provides voice and broadband service to the entire area it claims to serve, it still only serves 18 out of the 691 census blocks, and only 17 out of 149 census blocks that contain housing units.¹⁴

Bright House's proposal to reduce Smart City's support completely ignores both the *UCC/ICC Transformation Order* and the Bureau's *Public Notice*. In the *USF/ICC Transformation Order*, the Commission specifically stated that it is not prepared to eliminate support based on only a partial overlap.¹⁵ In addition, the *Public Notice* states that "only study areas in which 100 percent of the overlapping census blocks are served by an unsubsidized competitor are included in the preliminary determination."¹⁶

In summary, even if Bright House provides voice and broadband services to the entire area it claims to serve, it does not meet the 100 percent overlap standard as defined by the Commission and the Bureau. The Bureau lacks authority to reduce high-cost support payments to Smart City Telecom, as Bright House erroneously urges, based on overlap of only a small portion of its study area.

IV. CONCLUSION

For the foregoing reasons, Smart City Telecom urges the Bureau to determine that the study area serviced by Smart City Telecom is not 100 percent overlapped by any unsubsidized competitor or combination of unsubsidized competitors.

¹³ Bright House Comments at 2.

¹⁴ See 100% Overlap Map.

¹⁵ *USF/ICC Transformation Order*, para. 282.

¹⁶ *Public Notice*, para. 17 (emphasis supplied).

Respectfully submitted,

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