Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)
	)
Connect America Fund	) WC Docket No. 10-90
	)
Preliminary Determination of Rate-of-Return	)
Study Areas 100 Percent Overlapped by	)
Unsubsidized Competitors	)

TO: Chief, Wireline Competition Bureau

REPLY COMMENTS OF LaHARPE TELEPHONE COMPANY, INC.

LaHarpe Telephone Company, Inc. ("LaHarpe"), by its attorney, hereby files these reply comments in response to the initial comments of JMZ Corporation dba KwiKom Communications ("JMZ") and in accordance with the schedule established in the Wireline Competition Bureau's Public Notice (*Wireline Competition Bureau Publishes Preliminary Determination of Rate-of-Return Study Areas 100 Percent Overlapped by Unsubsidized Competitors*), DA 15-868, released July 29, 2015 ("*Public Notice*").

The purpose of these reply comments is to demonstrate once again that JMZ is not actually capable of serving 100 percent of the locations within the census blocks that JMZ claims to serve within LaHarpe's Kansas study area (Study Area Code 411791). In addition, the Bureau is requested to consider the public interest and consumer protection impacts upon the residents of the affected portions of Allen County, Kansas of driving out of business a long-established local carrier that has already deployed a highly reliable, state-of-the-art buried fiber-to-the home ("FTTH") network that can meet all of their conceivable broadband service needs for the foreseeable future [at speeds of 1 gigabit per second ("Gbps") or more] in favor of a relatively untested and lower bandwidth wireless Internet service provider ("WISP") like JMZ.

JMZ Does Not In Fact Serve 100 Percent of the Locations
<u>In the Census Blocks JMZ Claims to Serve</u>

When LaHarpe became aware of the *Public Notice*, it immediately investigated and determined that Cox served only one of the 277 census blocks in its Kansas study area, and that all of the 277 census blocks were claimed to be served by JMZ. LaHarpe was aware that JMZ provided fixed wireless Internet access service within its study area, but had never seen or heard any evidence that JMZ was capable of serving all of the locations therein. It therefore focused its investigation upon JMZ.

Whereas LaHarpe's FTTH facilities reliably serve all connected locations at broadband speeds enabled by the associated electronics, fixed wireless service is inherently less reliable and can be obstructed or degraded by a variety of conditions including distance, terrain, foliage and multiple simultaneous users. JMZ's own Facebook page has admitted that "Unfortunately service is not always available at every location that is the nature of fixed wireless Internet."[1]

In early August, 2015, LaHarpe and its consulting engineer, Monte R. Lee and Company of Oklahoma City, Oklahoma, checked the online coverage map on JMZ's website, and found that it showed within LaHarpe's study area certain areas where JMZ appeared to admit that it did not provide service (colored white), other areas where JMZ appeared to claim that it provided service (colored green), and certain areas on the periphery of the green areas where JMZ appeared to indicate that its service was questionable or uncertain (colored red). Whereas the unserved "white areas" were sufficient pursuant to paragraph 22 of the *Public Notice* to demonstrate that JMZ did not serve 100 percent of the locations within LaHarpe's study area, LaHarpe went further and had its consulting engineer conduct field tests to determine whether JMZ's fixed wireless facilities could provide the requisite minimum level of voice and 10/1

[1] JMZ response to customer, JMZ Facebook Page, June 27 at 6:30 pm (Attachment A).

megabits per second ("Mbps") broadband service to selected household locations within relevant census blocks.[2] During field tests conducted August 24 and 25, 2015, the consulting engineer performed detailed signal tests at a number of household locations within LaHarpe's study area. The August 24 and 25, 2015, signal strength measurements showed that **none** of the studied household locations were able to receive a JMZ signal sufficient to provide voice service and 10/1 broadband service.[3] A description, results and supporting data for the August 24 and 25, 2015 field tests were submitted as part of LaHarpe's August 28, 2015 comments in this proceeding.

On or about August 28, 2015, JMZ filed comments in this proceeding that asserted and reiterated in two identical statements that JMZ "currently offers voice and broadband service to all locations reported on JMZ's Form 477 and which overlap 100 percent of LaHarpe's study area."[4] Whether intentional or not, this statement is highly ambiguous and potentially misleading. It plainly does not assert that JMZ offers voice and broadband service to all locations **within the census blocks** reported on JMZ's Form 477. As the Commission is well aware, FCC Form 477 does not require or entail the reporting of any of the locations at which a fixed broadband provider offers service, but only the census blocks where the provider does or could provision service readily at certain minimum speeds.[5] Given that JMZ did not report **any** locations on its Form 477, its twice-repeated claim that it currently offers service to "all locations reported on [its] Form 477" is erroneous on its face. JMZ clearly does not assert (much less

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[2] LaHarpe notes and emphasizes that all of its August and September 2015 field tests were conducted for locations that were outside the census block served by Cox.

[3] In farming and ranching areas, the actual family residence is often located hundreds of yards, sometimes as much as a half mile, from the driveway terminus or mailbox along the road that serves as the property's address. LaHarpe notes that in some cases JMZ's online coverage map showed green along the road at the customer's "address" but was white at the actual location of the customer's residence. LaHarpe also notes that many rural farm and ranch houses are surrounded by trees that serve as wind breaks, but that also adversely impact wireless reception.

[4] "Comments of JMZ Corporation in Response to Public Notice," WC Docket No. 10-90, at p.1; Declaration of Zachery Peres, par. 3.

[5] FCC Form 477, Local Telephone Competition and Broadband Reporting, Instructions, at par. 5.3.

demonstrate) that it currently offers voice and broadband service to 100 percent of the locations within the census blocks reported on its Form 477.

Shortly after August 28, 2015, LaHarpe became aware that JMZ had filed the foregoing comments. Also about that time, LaHarpe's staff and consulting engineer noticed that JMZ's online coverage map had been modified to show a substantially larger green area and a much smaller white area within LaHarpe's study area than it had previously indicated. Given that LaHarpe's technicians, managers and other employees live, drive and work throughout its 66-square mile study area and the surrounding areas, LaHarpe would have been aware of any substantial tower construction or modification projects that extended or improved JMZ's network. No such projects were noted that would have significantly upgraded JMZ's service in the manner claimed by its online coverage map.[6] An analysis of JMZ's online coverage map prepared by LaHarpe's consulting engineer is included as Attachment B.

On September 8, 2015, LaHarpe's consulting engineer conducted a second set of field tests in LaHarpe's study area. One of the locations from the August 24-25 study was re-tested and found still not to be able to receive a sufficient signal from JMZ to obtain voice and 10/1 broadband service. Eight additional locations were studied within LaHarpe's study area; and five of these eight locations also were unable to receive a sufficient signal from JMZ to obtain voice and 10/1 broadband service. The consulting engineer's report regarding the September 8, 2015 field tests is furnished as Attachment C.

On September 22 and 23, LaHarpe's consulting engineer conducted yet a third field study to measure JMZ's signal coverage. He first checked JMZ's transmitters to determine whether

[6] LaHarpe notes that paragraph 3b of the Declaration of Zachary Peres attached to JMZ's comments states that its "coverage map [was] prepared by Towercoverage.com (an independent mapping source)" and that the map purports to show the areas where JMZ offers service at speeds of at least 10/1. JMZ offers no information as to how Towercoverage.com prepared the coverage map or as to what types of information or studies were used.

they had been upgraded since September 8, and found no evidence of any recent transmitter upgrades.

LaHarpe's consulting engineer then re-checked for JMZ's signal at some of the locations that had been tested on August 23-24 and September 8, 2015, plus three (3) additional locations that JMZ's online coverage map had changed from white to green between the August 23-24 tests and early September. This third series of tests found that the three additional locations were unable to receive a sufficient signal from JMZ to obtain voice and 10/1 broadband service, and that at least six (6) of the previously tested locations still could not receive a sufficient signal from JMZ to obtain voice and 10/1 broadband service. A description of these September 22 and 23, 2015 tests, plus the results and supporting data, is furnished as Attachment D.

Hence, notwithstanding JMZ's recent "upgrade" of its online coverage map without any evident corresponding upgrade of its fixed wireless network, it is clear from LaHarpe's multiple field tests that JMZ is not able to provide voice and 10/1 broadband service to 100 percent of the locations within LaHarpe's study area. For this reason alone, LaHarpe's Kansas study area (SAC 411791) must be removed from the Bureau's list of the rate-of-return study areas that are 100 percent overlapped by unsubsidized competitors.

PUBLIC INTEREST ARGUMENT

In addition, this proceeding presents a compelling public interest and consumer protection question as to whether the Commission should take action that is certain to deprive residents of Allen County, Kansas in and around the small city of LaHarpe (2010 population: 578) of a reliable and high-speed local FTTH service provider that is readily capable of offering speeds of over 1 Gbps for decades to come, in favor of an untested WISP that is not likely to provide remotely comparable service in either the short run or the long run.

LaHarpe has been serving portions of Allen County since 1903, and has been owned and operated by the Lee family since 1950. It currently serves approximately 232 customers as the carrier of last resort in and around the city of LaHarpe and is providing FTTH service to all of these customers. It has constructed over 80 miles of buried fiber optic plant, and can readily provide speeds of 1 Gbps or more to all existing and potential customers by installing the appropriate electronics at both ends of the customer's fiber. Its fiber lines are buried at depths of 36-to-60 inches, and are enclosed in a clearly marked and visible orange polypipe to protect against damage and accidents. LaHarpe has expended great effort to provide very reliable, state-of-the art voice and broadband services to its rural customers, and is particularly sensitive to customers with health issues that need reliable voice and E911 service as well as emerging rural health services, data and applications. In addition to its local residential and business customers, LaHarpe serves a cellular tower and an essential public safety site for the Enbridge Pipeline. It is particularly notable that LaHarpe's service allows the pipeline company to monitor operations and conditions in the area from remote locations, and to close the valves necessary to shut down the pipeline when necessary to avoid or minimize spills in the event of a rupture. This is an essential public safety and environmental protection function that is best provided by buried fiber and that would entail substantially decreased reliability and substantially increased danger if required to be furnished by wireless – assuming adequate wireless service would be available at the pipeline monitoring locations.

As indicated by the following table, LaHarpe relies upon federal high-cost support for the major portion of its revenues:

La Harpe Telephone Company, Inc.
Summary of USF Revenues
2012 through 2015

USF Support	2012	2013	2014	2015*
HCLS	$762,192	$684,681	$644,609	$406,190
ICLS	$431,640	$330,891	$247,345	$161,654
CAF-ICC	$59,292	$111,906	$102,120	$75,398
LSS	$77,610	$2,862	N/A	N/A
Total USF	**$1,330,734**	**$1,130,340**	**$994,074**	**$643,242**
Regulated Revenue	$1,809,281	$1,592,351	$1,273,525	$789,512
Nonregulated Revenue	$41,055	$40,524	$46,658	$31,454
Total Revenue	$1,850,336	$1,632,875	$1,320,183	$820,966
USF Rev % of Regulated	**74%**	**71%**	**78%**	**81%**
USF Rev % of Total	**72%**	**69%**	**75%**	**78%**

* Through August 2015

Specifically, from 2012 to the present, LaHarpe has been relying upon federal high-cost support for from 71-to-81 percent of its regulated revenues, and from 69-to-78 percent of its total regulated and nonregulated revenues. Loss of 70 percent or more of its revenues will terminate its viability as a going concern. With less than 30 percent of its traditional revenues remaining, it would be impossible for LaHarpe to raise enough new or alternative revenues to cover the employee, utility, vehicle, tax and other costs necessary to operate and maintain its existing network. And, with no universal service revenues, it is unlikely that any other entity would be interested in purchasing and operating the facilities.

In stark contrast to LaHarpe, JMZ has only been operating in the Allen County area since the 2007-2009 period. Like many WISPs, its long-term staying power and its ability to take over

and serve over 200 new customers are uncertain. Even at the present time, there is local dissatisfaction with the quality of JMZ's service, as evidenced by the two letters from former JMZ customers in the nearby community of Moran that are included as Attachment E. Moreover, even if JMZ's claims that it provides 10/1 service are accurate (and even if this is true during busy hour times, rather than only late at night as asserted by Mr. Cooper, one of the former JMZ customers), JMZ is not likely to be able to provide at any time within the remotely foreseeable future the 25 Mbps to 1 Gbps or greater services that LaHarpe can provide to all local residents today.

Termination or substantial contraction of LaHarpe's operations and services would be an unmitigated disaster for local residents and businesses. Today, these residential and business customers have access to a reliable, buried FTTH network that can meet their needs during the next 20-to-30 years for Internet access, telecommuting, teleconferencing, distance learning, home health monitoring, video streaming, smart home monitoring and a host of applications that have yet to be developed, as well as for regular and emergency voice services. The presence of this FTTH network will enable local residents and their children to start their own businesses, and will attract new residents and businesses to the area. It also provides during both the present and future an essential underlying foundation for service to schools, libraries, public safety agencies, rural health care facilities, wireless voice providers, and Lifeline customers.

While the number of areas served by FTTH networks is growing, LaHarpe's existing and potential customers remain in the fortunate minority that can readily obtain higher and higher bandwidth services as their broadband needs increase. However, if LaHarpe is deprived of federal high-cost support and is unable to survive as a going concern, this all ends. Local residents would have to depend upon an untested JMZ for their voice and broadband service – a

fixed wireless service which is likely to struggle to provide 10/1 service to increasing numbers of customers and which is not readily scalable to the 25 Mbps-to-1 Gbps broadband speeds that will be needed during the foreseeable future. Given its apparent reliance upon a third party (Towercoverage.com) for its coverage map, it is not even certain that JMZ knows where it can provide service. Such a reversal of fortune for local residents is antithetical to the Commission's goals of facilitating world-class networks and protecting consumers.[7]

These serious consumer protection issues provide a second, independent reason why LaHarpe's Kansas study area must be removed from the Bureau's list of the rate-of-return study areas that are 100 percent overlapped by unsubsidized competitors. For the sake of a small redistribution of federal high-cost support at this time (given the substantial needs of many companies for federal high-cost support for broadband, it is unlikely that the overall $2.0 billion budget established at 2011 support levels will be reduced by as much as a dollar), the residential and business customers within LaHarpe's study area should not be deprived of state-of-the-art FTTH-based broadband services for the next decade and more.

Respectfully submitted,
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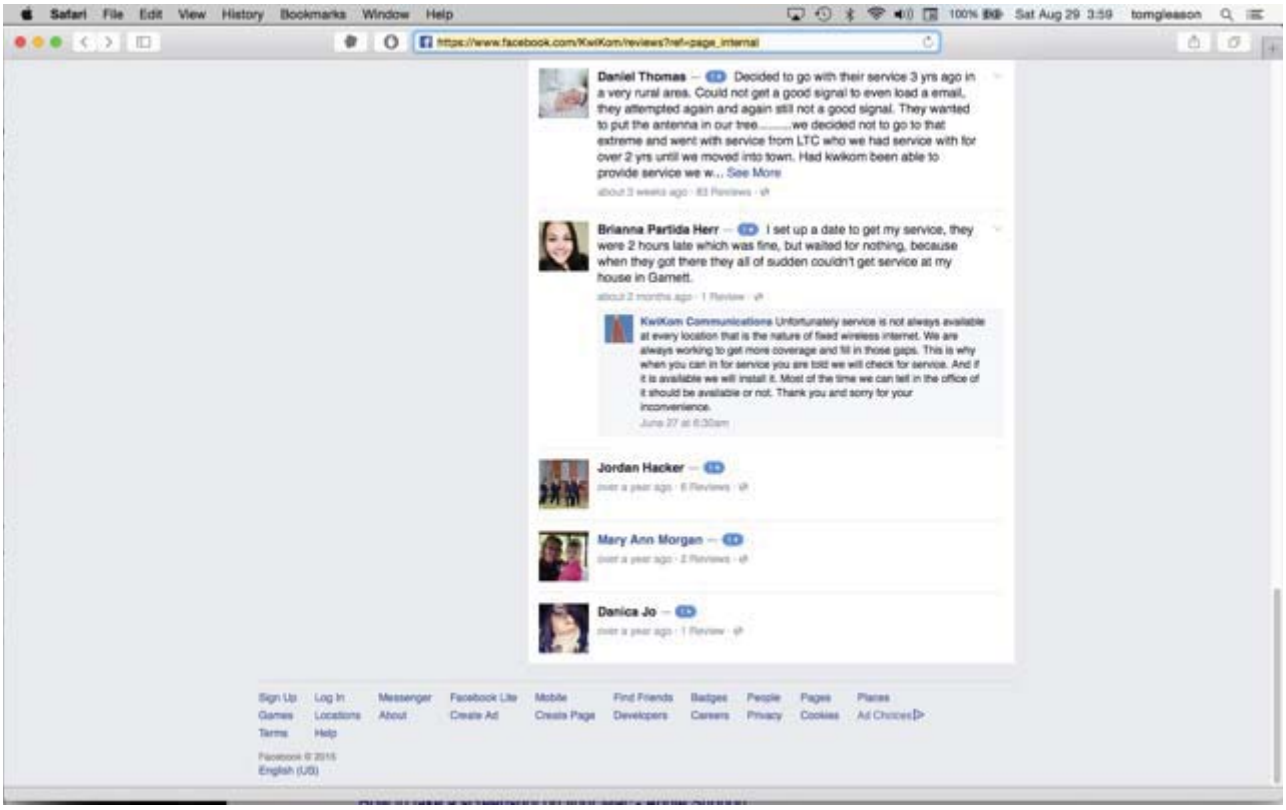
[7] See, for example, Gigi Sohn, "Consumer Protection in the Broadband Era: The Role of the FCC," September 24, 2015, p. 2.

ATTACHMENT A: JMZ Facebook Page (June 27)



Safari File Edit View History Bookmarks Window Help 100% Sat Aug 29 3:59 tomgleason

https://www.facebook.com/KwikKom/reviews?ref=page_internal

Daniel Thomas — Decided to go with their service 3 yrs ago in a very rural area. Could not get a good signal to even load a email, they attempted again and again still not a good signal. They wanted to put the antenna in our tree.....we decided not to go to that extreme and went with service from LTC who we had service with for over 2 yrs until we moved into town. Had kwikom been able to provide service we w... See More

about 3 weeks ago · 83 Reviews

Brianna Partida Herr — I set up a date to get my service, they were 2 hours late which was fine, but waited for nothing, because when they got there they all of sudden couldn't get service at my house in Garnett.

about 2 months ago · 1 Review

KwiKom Communications Unfortunately service is not always available at every location that is the nature of fixed wireless internet. We are always working to get more coverage and fill in those gaps. This is why when you can in for service you are told we will check for service. And if it is available we will install it. Most of the time we can tell in the office of it should be available or not. Thank you and sorry for your inconvenience.

June 27 at 6:30am

Jordan Hacker —

over a year ago · 6 Reviews

Mary Ann Morgan —

over a year ago · 2 Reviews

Danica Jo —

over a year ago · 1 Review

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