

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

In the matter of)	
)	
Universal Service Reform)	WT Docket No. 10-208
Mobility Fund)	
)	

COMMENTS OF GVNW CONSULTING, INC.

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Executive Summary

The Commission must be cautious to recognize the interdependence that wireless carriers have on wireline networks. The mobility provider depends on the wireline provider in its call completion and transport architecture. Current wireless, VoIP, and satellite networks require a connection to land line infrastructure to provide full functionality.

Due to this interdependence, reverse auctions rules must not migrate to rural wireline carriers. Implementing a reverse auction approach for rural wireline carriers could have unintended consequences, including an inability to raise capital and evolve appropriate levels of service, while providing backhaul to wireless providers.

Rural carrier telecommunications networks necessitate investing large amounts of capital in inherently long-lived plant assets. These investments are possible when lenders have a reasonable certainty of debt repayment and investors/stockholders/cooperative members are afforded an opportunity to receive a compensatory rate-of-return.

Under any proposed reverse auction scenario, universal service support would not be predictable over the long term. Another question that does not appear to be answered is what are the “costs” from a public policy perspective for reverse auction winners that are ultimately unable to perform? Historically, the “carrier of last resort” (COLR) designation has provided a reasonable assurance that customers in remote regions of the country will have access to communications services. An important part of the COLR package has been the availability of universal service support. The reverse auction proposals do not appear to address an adequate fallback position for customers in rural areas where the “winner” is unable to meet its commitment.

INTRODUCTION

In this Notice of Proposed Rulemaking (NPRM), the Commission requests comment on a proposal to establish a separate Mobility Fund, as the first in a series of initiatives to promote broadband deployment and mobile services. The Mobility NPRM discusses providing support to one mobile provider per unserved area, while using a competitive bidding approach (reverse auction) to determine both recipients and amounts. While we recognize that the Commission believes this to be a prudent approach for a wireless technology, we will provide input in these comments as to why the reverse auction approach should not be extended to any wireline universal service support reform.

GVNW Consulting, Inc. (GVNW) is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

THE MOBILITY FUND PROPOSAL SHOULD BE VIEWED AS A TECHNOLOGY-SPECIFIC PROPOSAL

In its Mobility NPRM, the Commission proposes to create a mobility fund with amounts estimated to be between \$100 million to \$300 million and recommends that a form of reverse auctions be used to determine which providers will receive support from the fund as well as which locations will be supported. In earlier related proceedings, parties have offered¹ the observation that mobile and fixed services are not substitutes, but rather complementary, and thus need separate approaches to universal service funding. While complementary, the wireless technology is dependent on the fixed platform for important functionality.

In this regard, the Commission must be cautious to recognize the interdependence that wireless carriers have on wireline networks. The mobility provider depends on the wireline provider in its call completion and transport architecture. Current wireless, VoIP, and satellite networks require a connection to land line infrastructure to provide full functionality. This network reality is documented in *Wireless Needs Wires: The Vital Role of Rural Networks in Completing the Call*, published by the Foundation for Rural Service in March, 2006. This paper states in part:

Without thoughtful consideration by policymakers of the challenges of providing wireless services in rural America, as well as the dependence of wireless services on wireline networks, portions of the nation are likely to remain underserved . . . Most importantly, one must recognize that without the underlying wireline network, wireless networks could not exist in their current form. In spite of this obvious fact, large wireless carriers and policymakers alike continue to pursue practices and policies that will in fact undermine the critical wireline network. While discussions on how to modify reciprocal compensation, access charges, and universal service continue, attention must be placed on ensuring these mechanisms are capable of maintaining the fiscal health of that wireline network.

¹ Comments of OPASTCO, GN Docket No. 09-47, December 7, 2009 at page 12.

REVERSE AUCTIONS FOR MOBILITY FUND SUPPORT SHOULD NOT BE APPLIED TO PROGRAMS FOR RURAL WIRELINE CARRIERS

Developing the transition mechanisms for rural wireline universal service support is more challenging than developing the proposed mobility fund. This added challenge occurs due to the carrier of last resort (COLR) / provider of last resort (POLR) responsibilities that we believe will continue to be an important policy basis for ensuring the needs of rural customers are met.

GVNW has consistently opposed² the use of reverse auctions for selecting recipients or determining the level of wireline universal service support. We continue to express these concerns for the following reasons.

Reverse Auctions raise significant public policy issues for high cost to serve areas

Implementing a reverse auction approach for rural wireline carriers could have unintended consequences, including an inability to raise capital and evolve appropriate levels of service.

It appears that a key to the success of a reverse auction approach is an exacting statement of work. As with any fixed-price bidding system, the success of the contract will depend entirely upon the quality of the statement of work that forms the basis of the

² Several Commissioners have also expressed concerns with respect to reverse auction issues. In the 2008 *Reverse Auctions Notice*, Commissioner Copps offered the following excerpt in his accompanying Commissioner statement: “...our review raised in my mind many more questions than it answered. For instance, how do we ensure that the winning bidder provides adequate quality of service? What happens if the winner later decides it is no longer profitable to continue its operation? And who will be responsible for establishing the rules and enforcing them? Ironically, this purportedly market-based approach strikes me as hyper-regulatory. For these reasons, I must dissent from the NPRM’s tentative conclusion that the Commission should develop an auction mechanism to determine high-cost support.”

proposal. We anticipate that the Commission would intend to define a static set of supported services. Since any services outside of this definition will not qualify as supported services, the ability to evolve services and capabilities is seriously compromised as the auction winner may have no incentive to spend beyond the current service level. This seems contradictory to the administration's goals and Congressional support present for an evolution to broadband networks. We respectfully submit that carriers other than rural wireline carriers should be the subject of such an experiment. Given the uncertainty regarding such an approach, and the lack of empirical data as to what constitutes a successful auction scenario, we believe rural carriers are not the proper subset on which to experiment in this regard. Rural carriers often are the only provider of ubiquitous and high-quality service in a service area.

Reverse auctions would create an uncertainty with respect to capital recovery and retard the deployment of rural infrastructure

Rural carrier telecommunications networks necessitate investing large amounts of capital in inherently long-lived plant assets. These investments are possible when lenders have a reasonable certainty of debt repayment³ and investors/stockholders/cooperative members are afforded an opportunity to receive a compensatory rate-of-return.

Under the proposed reverse auction scenario, universal service support would not be predictable over the long term. After the contract period expires, support for an area would be re-auctioned. In the subsequent period, the initial bidder, who will have made long-term investments to serve a rural area, would only retain its revenues if it submitted the winning second bid. This type of uncertainty would certainly not provide sufficient

³ Conversely, lenders available to rural carriers will be unwilling to provide new capital if there is significant uncertainty regarding the ability to meet principal and interest obligations.

incentive for efficient, long-term investment strategies that are prerequisite to infrastructure deployment in low density, high cost to serve areas of the country.

Without adequate network performance standards firmly in place, the Commission will have fired the starting gun for a race to the bottom in terms of service quality

The enforcement of service quality standards could be a difficult task for the Commission. In a competitively bid contract scenario, the purchasing party has the obligation to enforce the terms of the contract upon the bidder. At the same time, the financial incentives for the winning bidder are to perform the work at a lower cost than was bid. In order to prevent this natural incentive to cut costs resulting in a degradation of service, some form of oversight by a regulatory authority would be required.

Reverse auctions would create no incentive to invest after the contract, and would be especially acute in the later years of a contract cycle. For example, carriers would be unable to justify investing in long-lived assets in the eighth or ninth year of a ten year contract period when faced with the possible loss of support in year eleven.

Other important policy questions that the Commission must consider include: How does the Commission propose to monitor the winner's performance and how does the Commission intend to handle the provision of service when carriers exit high cost to serve markets if they are not the successful auction bidder⁴? If an existing rural wireline

⁴ Another question that does not appear to be answered is what are the "costs" from a public policy perspective for reverse auction winners that are ultimately unable to perform? Historically, the "carrier of last resort" (COLR) designation has provided a reasonable assurance that customers in remote regions of the country will have access to communications services. An important part of the COLR package has been the availability of universal service support. The reverse auction proposals do not appear to provide an adequate fallback position for customers in rural areas where the "winner" is unable to meet its commitment. This leads to another public policy question that must be answered: How would the Commission propose to mitigate a large carrier from low balling a bid to win the auction, and then ignore the low-density portion of the area? While this may not be important to 90+% of the customers, it is of vital importance to the potentially disenfranchised 10%. We encourage the inclusion of a rural incumbent carrier exemption in any approach to reverse auctions.

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carrier were to be unsuccessful in a reverse auction proceeding, it is unclear as to how the Commission would intend to address confiscation issues.⁵

Respectfully submitted,

Submitted via ECFS

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⁵ It is not clear that the Commission may supersede intrastate depreciation rates in light of the *Louisiana* standard.