

**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 CENTURYLINK

In this proceeding, the Commission invites comment about a proposed Mobility Fund¹ derived from a portion of universal service fund (“USF”) dollars recovered from disbursements originally expected to be made to Verizon Wireless and Sprint-Nextel.² Promoting the availability of more modern wireless service to currently uncovered areas appears to be a beneficial goal. However, given the reality of limited available USF dollars, CenturyLink believes that the Commission must remain laser-focused on creating a successful Connect America Fund (“CAF”), which is far more important, and should ultimately subsume the proposed Mobility Fund..

The Commission should therefore be cautious in establishing and administering any Mobility Fund. The proposed Mobility Fund would not be designed to promote targeted

¹ *Universal Service Reform; Mobility Fund*, WT Docket No. 10-208, FCC 10-182 (rel. Oct. 14, 2010) (“Notice”).

² *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications, LLC*, WC Docket No. 05-337, CC Docket No. 96-45, *Order and Notice of Proposed Rulemaking*, 25 FCC Rcd 12854 (2010) (“Corr Wireless Order”).

broadband speeds for unserved areas and it will be limited to one technology type by definition. In all events, the reverse auction proposals for the Mobility Fund made in the *Notice* would be entirely inappropriate as a mechanism to make disbursements from the CAF. Disbursements from the CAF involve substantially thornier questions than would a one-time disbursement to a wireless provider in an uncovered territory. In addition, although some elements of the reverse auction are in the public interest, the FCC should make critical changes to the proposal in order to improve its efficiency and better meet program goals.

I. THE MOBILITY FUND SHOULD BE A LIMITED, ONE-TIME EFFORT THAT WOULD BE REPLACED BY THE UNIFIED CAF.

Promoting availability of 3G wireless services in currently uncovered areas has some benefit, but the Commission must not overstate its value. No doubt there are areas of the country that do not currently receive the most modern wireless services, or even wireless service at all (although it does not appear that the proposed Mobility Fund will be targeted solely for these latter areas). Rural consumers can benefit much like urban customers by having available mobile communications. Nevertheless, the National Broadband Plan recognized that supporting voice and broadband deployment is necessarily the Commission's highest priority.

The Plan recommended that the Commission's high cost universal service program be substantially modified in order to refocus disbursements to bring voice and broadband services to all Americans.³ The FCC has begun the process of soliciting comments on various, limited aspects of such fundamental reform.⁴ CenturyLink supports comprehensive universal service

³ Federal Communications Commission, *Connecting America: The National Broadband Plan*, GN Docket No. 09-51, 145 (rel. Mar. 16, 2010) ("National Broadband Plan").

⁴ *Connect America Fund; A National Broadband Plan for Our Future; High-Cost Universal Service Support*, WC Docket No. 10-90, *et al.*, Notice of Inquiry and Notice of

reform efforts and has made detailed proposals on what parameters it believes will best achieve the Commission's goals, consistent with the National Broadband Plan.⁵ CenturyLink also firmly believes that fundamental reform of intercarrier compensation must be undertaken at the same time since intercarrier compensation and universal service are integrally intertwined programs that can rationally be reformed only in tandem. The Commission is scheduled to begin in earnest the job of fundamental reform of both universal service and intercarrier compensation. Even if the schedule slips, as has been reported in the trade press, it is widely expected that this process will begin as early as February 2011. Given that the parameters of such critical, fundamental reform have not even been proposed at this point, let alone adopted, the Commission should be cautious in its adoption of a Mobility Fund, which should be just a small part of any such reforms.

The National Broadband Plan proposes that the Commission replace existing high cost universal service support, including USF funds which now go to wireless carriers, with a CAF mechanism that supports a single unified voice and broadband network in an unserved area.⁶ Any eligible carrier would be allowed to compete for support under the CAF. Therefore, there would no longer be any need for a Mobility Fund once the CAF is established and operational.

What is more, concerns have been raised regarding the overall size of the USF program.⁷ In particular, policymakers have expressed concern about awarding duplicative funding to

Proposed Rulemaking, FCC 10-58 (rel. Apr. 21, 2010).

⁵ Comments of CenturyLink, WC Docket No. 10-90, 10-28 (filed Jul. 12, 2010) ("CenturyLink USF NOI/NPRM Comments").

⁶ National Broadband Plan at 145.

⁷ See, e.g., *High Cost Universal Service Support*, Order, 23 FCC Rcd 8834, ¶ 6 (2008) ("CETC Freeze Order"). The First Quarter 2011 USF contribution factor is projected to be 15.5

competing networks, which gave rise to an interim freeze on wireless disbursements.⁸ Dollars available for the mobility program should, therefore, be limited.

Based on these concerns, the Mobility Fund should be a one-time program with limited funding; indeed, it would be better if maximum disbursements were closer to \$100 million than the proposed range. Once all money is disbursed and systems are operational, the Commission would be able to evaluate whether the program was successful. By the time these systems are operational, the CAF should be established and would have unified goals for both wireline and wireless providers.

II. THE REVERSE AUCTION PROPOSAL WOULD BE INAPPROPRIATE AS A MODEL FOR THE BROADBAND UNIVERSAL SERVICE FUND.

The *Notice* proposes to disburse Mobility Fund support in accordance with a reverse auction system that calls for single bids to provide wireless 3G service in uncovered census tracts.⁹ Although the *Notice* itself does not indicate what the rules for the Mobility Fund auction could portend for the CAF disbursement mechanism, Chairman Genachowski has stated that this proceeding “is a model for how we can achieve broader USF reform”¹⁰ This is a mistake. A pure reverse auction is sure to be a disaster if applied to the CAF because the CAF

percent, the highest contribution factor ever. Public Notice, *Proposed First Quarter 2011 Universal Service Contribution Factor*, DA 10-2344 (Off. Mang. Dir., rel. Dec. 13, 2010).

⁸ *CETC Freeze Order*, ¶ 6; Statement of Commissioner Larry S. Landis, *High-Cost Universal Service Support*, WC Docket No. 05-337, 22 FCC Rcd 20477, 20506 (Fed.-St. Jt. Bd. USF, 2007) (the “pathology” of the existing system, which promotes “subsidized competition”, must end).

⁹ *Notice*, ¶¶ 16-19.

¹⁰ *Id.*, Statement of Chairman Julius Genachowski at 2.

disbursement mechanism will involve vastly more complexities than would be faced in awarding limited dollars to wireless providers seeking to enter individual, previously uncovered areas.

First, the proposed wireless 3G network build-out likely can be defined with a few discrete requirements, to which an auction could be adapted, as has been done with wireless spectrum. This is not true for the selection of a broadband provider in currently unserved areas. This will be more akin to selecting a carrier-of-last-resort (“COLR”) that will be expected to meet a wide range of expectations regarding network operation, services provided, and customer relationships maintained, and to do so over a long range of time in the face of evolving market conditions and technologies. It is highly unlikely that an auction, which is a tool designed to select winners for commodities or single items, can be adapted successfully to meet the needs of the CAF. Instead, some other form of selection process will have to be designed for the CAF, as it often done in government procurement contexts.

Second, use of census blocks or tracts for disbursing CAF funds would be plainly inefficient by causing delays in disbursements and increasing the costs of the program.¹¹ Because few existing network providers will normally serve a complete census tract, there will be an inevitable mismatch between the coverage of the existing network, which can easily be upgraded to provide the targeted speed of broadband service, and places within the census tract that the network does not reach. Because of this mismatch, bids would necessarily be higher than they would be if a more efficient geographic area is chosen that matches existing network footprints. In addition, administrative costs of both the government and applicants will be materially increased by using a census tract area as the basis of a bid since there would not be

¹¹ CenturyLink USF NOI/NPRM Comments at 22-24.

previous experience in the use of census tracts for wired networks. It would be more logical and much more efficient in the broadband context to use wire centers as the geographic area for disbursements.¹²

Third, broadband funding must focus special attention on encouraging investment in networks that provide a range of consumer services, such as voice and broadband. Making determinations about what network should receive support for providing broadband services will inevitably implicate questions concerning voice services provided by regulated incumbent local exchange carriers (“ILECs”) that were required pursuant to COLR obligations to build out to geographic areas where no other carrier will provide service. These remote markets will inevitably be unable to sustain the network economically without government support because of the limited revenues from services that could be provided to consumers in those markets. A reverse auction bears serious downside risks of undermining incentives to maintain and continue to invest in those remote networks. That in turn would undermine the National Broadband Plan’s recognition that private investment is a necessary underpinning of universal broadband.¹³ For instance, a rational ILEC could stop investing in the network pending an auction because of the risk that further investment will be lost. In addition, a reverse auction raises the serious question of whether the ILEC will be reimbursed for unrecovered network costs. The CAF selection method must be designed to avoid creating conditions like these that suppress investment in rural networks. Undermining private investment in existing networks is not as significant a problem, however, with a limited Mobility Fund because failure of the program will

¹² *Id.* at 21-22.

¹³ National Broadband Plan at 3-4.

not have the same effect on continuing investment in existing networks in the geographic area of the bid because of the one-time nature of the support.

Finally, a broadband funding selection mechanism implicates unique concerns regarding the protection of existing customer services. A pure reverse auction risks ousting the ILEC without addressing how to maintain service for existing customers or how to ensure that the new recipient is ready, willing, and able to provide quality service in the geographic area. Consequently, the CAF mechanism needs to take into much greater account the capabilities and financial standing of the network provider. Non-price factors become more critical in evaluating CAF proposals for USF support. Disbursing Mobility Fund dollars to a provider without a robust network in such area, on the other hand, is a far less risky proposition if the carrier's commitment is not met. No damage to existing universal service would occur other than diverting government support that in retrospect should have been given to more worthy recipients.

For all these reasons, and many others, a pure reverse auction as proposed in the *Notice* does not begin to accommodate the complex questions that will arise in the CAF context. Therefore, a significantly different system should be created to select CAF recipients, such as a request for proposal methodology.¹⁴

¹⁴ See, e.g., Comments of AT&T Inc., WC Docket No. 10-90, 5-7 (filed Jul. 12, 2010); Comments of the National Association of State Utility Consumer Advocates, the Maine Office of Public Advocate, Office of the Ohio Consumers' Counsel, Pennsylvania Office of Consumer Advocate, and the Utility Reform Network on Notice of Inquiry, WC Docket No. 10-90, 22-23 (filed Jul. 12, 2010). See also CenturyLink USF NOI/NPRM Comments at 55 n.144.

III. ALTHOUGH SOME OF THE PROPOSALS MAY BE IN THE PUBLIC INTEREST, CERTAIN ASPECTS OF THE MOBILITY FUND REVERSE AUCTION MUST BE MODIFIED IN ORDER TO IMPROVE EFFICIENCIES.

Solely focusing on the merits of the reverse auction proposal for a limited Mobility Fund, certain aspects of the proposal are right on target and should be adopted. First, only uncovered areas should be supported because customers in served geographic areas can already obtain wireless service without government support. Second, only one wireless provider should receive Mobility Fund disbursements in any uncovered area because subsidized competition is not good public policy. Third, the *Notice* correctly notes that clear rules should be established that obligate the auction winner to serve the uncovered territory within a specified period of time in order to ensure program goals are achieved. Fourth, the integrity of public support programs would be protected through the clear enforcement procedures proposed, such as the proposal to award only part of the funds until the carrier can demonstrate it has met milestones along the path to meeting its full build-out commitment. These proposals are eminently reasonable and should be adopted.¹⁵

Other proposals contained in the *Notice* require some further thought, however. First, mobility funds should only be provided to serious eligible telecommunications carriers (“ETCs”) that have already received ETC authorizations and radio licenses or a lease for spectrum to serve the census tract for which the bid is submitted. The Commission should not waste time processing applications for an applicant that cannot demonstrate its ability to provide service.

¹⁵ Although CenturyLink does not support using Mobility Fund selection criteria as guidelines for the CAF, it is worth noting that these concepts are generally applicable to many situations calling for competitive selection. Indeed, CenturyLink made similar proposals with regard to the CAF. CenturyLink USF NOI/NPRM Comments at 10-28.

Awarding funds to an applicant that simply asserts its intention to obtain an ETC certificate or a license in the future would only encourage waste, fraud, and abuse.

Second, the Commission should adopt clear rules that prohibit any disbursements to carriers that are receiving duplicative government support for the census tract on which the bid is submitted. Wireless carriers currently receive over \$1 billion annually from the high cost fund.¹⁶ CenturyLink submits that, as a rule, these carriers have not made wise use of this funding to date in expanding service to uncovered geographic areas.¹⁷ Given that history, wireless applicants that seek additional USF money from the Mobility Fund should be required to show that they have not previously received USF support to provide the same basic voice and data services for the uncovered census tracts.

IV. CONCLUSION

Expanding 3G wireless services to currently uncovered areas may produce some benefits to consumers. However, CenturyLink believes that a Mobility Fund should be a limited, one-time program that would be superseded by the CAF mechanism. The Mobility Fund reverse auction mechanism should not form the basis of disbursing funds for the CAF because the broadband fund involves significantly more complex questions involving existing providers with COLR responsibilities. Although some aspects of the reverse auction proposal for the Mobility

¹⁶ In 2008, the Commission estimated CETC receipts, the vast majority of which are received by wireless carriers, at over \$1.1 billion. *CETC Freeze Order*, ¶ 6. This amount will decline by about \$530 million over a five-year period as the Verizon Wireless and Sprint-Nextel merger commitments are implemented. *Corr Wireless Order*, ¶ 4.

¹⁷ The Commission itself has recognized that the current identical support rule does not provide an incentive to invest in wireless facilities in remote areas. *CETC Freeze Order*, ¶ 21. CenturyLink has previously pointed out the lack of a record basis to conclude that wireless carriers have used USF support to expand service in rural areas. Reply Comments of CenturyLink, WC Docket No. 10-90, 10-11 (filed Aug. 11, 2010).

Fund could be in the public interest, there must be essential changes made to make it more rational and efficient.

Respectfully submitted,

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