

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of )  
 )  
Triangle Communication System, Inc. ) WC Docket No. 09-197  
 )  
Petitions for FCC Agreement to )  
Redefine the Study Areas of Rural )  
Telephone Companies in Montana )  
  
To: Wireline Competition Bureau

**REPLY COMMENTS**

Triangle Communication System, Inc. (“TCS”), by its attorney, hereby submits reply comments in response to the comments filed regarding the TCS Petitions for Redefinition (“Redefinition Petitions”) filed on August 4, 2011 requesting Federal Communications Commission (“FCC” or “Commission”) agreement with the Montana Public Service Commission’s (“MPSC”) decision to redefine the service areas of two rural telephone companies – Central Montana Communications (“CMC”) and Triangle Telephone Cooperative Association, Inc. (“TTCA”).<sup>1</sup> On November 14, 2011, the Commission initiated a proceeding to consider the Redefinition Petitions pursuant to section 54.207 of the Commission’s rules.<sup>2</sup> In the recent round of comments, the Montana Telecommunications Association (“MTA”) filed comments that referenced new issues raised by the Commission’s recent Connect America Fund Order (“CAF

---

<sup>1</sup> Wireless Competition Bureau Seeks Comment on Triangle Communication System, Inc.’s Petitions for Agreement in Redefining the Service Areas of Rural Telephone Companies in Montana, WC Docket No. 09-197, *Public Notice*, DA 11-1417 (August 17, 2011).

<sup>2</sup>Wireless Competition Bureau Initiates Proceeding to Consider Triangle Communication System, Inc.’s Petitions for Agreement in Redefining the Service Areas of Rural Telephone Companies in Montana, WC Docket No. 09-197, *Public Notice*, DA – 11-1884 (November 14, 2011).

Order”).<sup>3</sup> While MTA does not oppose TCS’s Redefinition Petitions outright, MTA argues that the CAF Order triggers new issues for “Commission consideration in the context of this Proceeding.”<sup>4</sup> However, MTA, in its analysis of these issues, misconstrues the conclusions of the CAF Order. As discussed below, the CAF Order essentially moots MTA’s competitive concerns and TCS urges the Commission to grant the Redefinition Petitions in order to allow TCS to be eligible for both Phase I and Phase II Mobility Funding in order to provide crucial mobile telecommunications services in rural Montana, including low-income Tribal Areas.

### **I. The CAF Order Alleviates Any Competitive Concerns**

As the Commission is aware, the CAF Order creates an entirely new universal service paradigm for mobile eligible telecommunications carriers (“ETCs”) by establishing a Phase I Mobility Fund to promote mobile broadband<sup>5</sup> and a Phase II Mobility Fund to provide ongoing high-cost support where needed to mobile providers.<sup>6</sup> The CAF Order also establishes funding specifically for Tribal Areas.<sup>7</sup> By establishing these separate Mobility Funds and eliminating the identical support rule,<sup>8</sup> the FCC has removed mobile carriers from the legacy, rate-of-return universal service regime. Accordingly, MTA’s concerns that designating TCS as an ETC and redefining the service areas of rural telephone companies CMC and TTCA might have a harmful

---

<sup>3</sup>*In re Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (November 18, 2011) (“CAF Order”).

<sup>4</sup> MTA Comments at 3.

<sup>5</sup> CAF Order at ¶ 301.

<sup>6</sup> *Id.* at ¶ 493.

<sup>7</sup> *Id.* at ¶ 479.

<sup>8</sup> *Id.* at ¶ 498.

impact on the universal service fund<sup>9</sup> have been effectively mooted by the FCC's recognition of wireless service as a complement<sup>10</sup> to wireline broadband service and the Commission's proposed use of competitive bidding to determine wireless ETC support levels.<sup>11</sup>

As a threshold matter, mobile carriers must be designated ETCs in order to be eligible for Phase I and Phase II Mobility Fund support.<sup>12</sup> It would be patently unfair for the FCC to deny TCS's requested redefinitions of rural study areas in light of this ETC requirement, thereby eliminating any chance for TCS to bid on Phase I and Phase II funding. Such a denial would be contrary to the Commission's overarching goal of promoting mobile broadband and acknowledgment "that ensuring universal advanced mobile coverage is an important goal on its own."<sup>13</sup> MTA has overlooked this goal and its competitive concerns reflect a pre-CAF Order mindset that is no longer applicable to TCS's ETC redefinition request.

## **II. MTA's Discussion of Study Area Waivers and the One-Percent Guideline Is Non-Germane**

MTA cites to the Commission's discussion of study area waivers and the one-percent guideline in the CAF Order, claiming that this language raises relevant issues for Commission consideration.<sup>14</sup> MTA's argument is misplaced and could hardly be less relevant to the redefinition issues in the instant proceeding. The study area waiver and one-percent guideline is solely pertinent to the *sale and the acquisition of exchanges*,<sup>15</sup> and is not germane to the ETC redefinition issues that are raised here.

---

<sup>9</sup>See MTA Comments at 3.

<sup>10</sup>CAF Order at ¶53. See also fn. 826.

<sup>11</sup>*Id.* at ¶ 1121, *et. seq.*

<sup>12</sup>See CAF Order at ¶¶ 389 and 1140.

<sup>13</sup>*Id.* at ¶ 53.

<sup>14</sup>See MTA Comments at 4.

<sup>15</sup>See CAF Order at ¶ 261.

### **III. MTA's Concern about Partially Served Areas and Unsubsidized Competitors Is Unfounded**

MTA's concern about support possibly being provided where there are unsubsidized competitors<sup>16</sup> is unfounded. The new rules and proposed rules adopted in the CAF Order will sufficiently address this issue by targeting Mobility Fund support only where needed. Indeed, it is Triangle's intention to participate in the Phase I and Phase II Mobility Fund auctions. In order for parties to be eligible to participate in the Mobility Fund Phase I auction, the CAF Order requires parties to have ETC status prior to the auction's short-form application deadline.<sup>17</sup> Although the rules for Phase II have yet to be adopted, it is reasonable to assume that ETC status will also be required for Phase II Mobility Fund auctions.<sup>18</sup> Triangle promptly and properly sought and was granted ETC designation status from the MPSC within the TTCA and CMC exchanges. All TCS is waiting for now to participate in the Commission's Phase I and Phase II auctions is for the Commission to grant its redefinition requests. MTA's concern about multiple competitors using scarce funding resources<sup>19</sup> has been taken care of by new rules that allow "no more than one entity" to receive high-cost support in a certain area.<sup>20</sup> In addition, MTA's concerns about partially served areas will be eliminated by competitive bidding rules that will target mobile support exactly where it is needed.<sup>21</sup>

---

<sup>16</sup>See MTA Comments at 5.

<sup>17</sup>CAF Order at ¶ 388.

<sup>18</sup>See CAF Order at ¶ 1140.

<sup>19</sup>See MTA Comments at 4.

<sup>20</sup>CAF Order at ¶ 315.

<sup>21</sup>*Id* at ¶ 301 and 493.

#### **IV. TCS Has Meaningfully Engaged With Tribal Governments.**

MTA's concerns whether TCS is engaging with Tribal Governments<sup>22</sup> are no reason to delay approval of TCS's request for redefinition. As indicated above, TCS intends to participate in the Phase I and Phase II auctions. This includes the Tribal Phase I auction. Triangle has already meaningfully engaged with the Fort Belknap Tribal Council as well as residents of the Fort Belknap Reservation and continues to work with Tribal leaders. In TCS's original ETC application, the Fort Belknap Tribal Council provided TCS with a resolution supporting its request for ETC status. Further, in support of its efforts to obtain Commission agreement with the MPSC designation, Triangle obtained hundreds of letters of support from subscribers emphasizing the need for wireless service in the rural areas where they reside, including Tribal areas in Harlem and the Fort Belknap Reservation. Triangle will continue to engage the Fort Belknap Tribal Council in connection with the forthcoming Phase I auctions and Phase II auctions.

#### **V. Conclusion**

Though MTA correctly identified issues raised in the CAF Order, its interpretation of these issues misses the mark. For the aforementioned reasons, the Commission should grant

---

<sup>22</sup>See MTA Comments at 5.

TCS's Redefinition Petitions in an expedited fashion<sup>23</sup> so that TCS can plan and participate in the FCC's pending Mobility Fund auctions.

Respectfully submitted,

**TRIANGLE COMMUNICATION  
SYSTEM, INC.**

By: \_\_\_\_\_/s/\_\_\_\_\_

Kenneth C. Johnson  
Bennet & Bennet, PLLC  
4350 East West Highway  
Suite 201  
Bethesda, MD 20814  
(202) 551-0015  
Its Attorney

Dated: December 29, 2011

cc: Best Copy and Printing, Inc.  
Joseph Cavender, Telecommunications Access Policy Division, WCB  
Charles Tyler, Telecommunications Access Policy Division, WCB

---

<sup>23</sup> TCS notes that the FCC has promised that it "will make every effort to process such [ETC] applications in a timely fashion." See CAF Order at ¶ 390.