Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	))	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	))	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universay Service Reform – Mobility Fund	)	WT Docket No. 10-208

To: Wireless Telecommunications Bureau

COMMENTS

OF THE

RURAL TELECOMMUNICATIONS GROUP, INC.

RURAL TELECOMMUNICATIONS GROUP, INC.

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As the FCC moves forward to craft the second phase of its Mobility Fund, the Rural Telecommunications Group, Inc. ("RTG") requests the FCC to ensure that it do no harm to existing rural mobile voice and broadband services in rural America. What drove the FCC to reform universal service support for broadband was the desire to more efficiently distribute funding and deploy more broadband to unserved areas. As the Commission transitions to Phase II of the Mobility Fund, its driving motivation must be to ensure that rural areas do not lose service or have existing coverage levels deteriorate as a result of decisions made about how to distribute ongoing support. Along those lines, the FCC must craft rules that allow existing ETCs who have long served rural areas and have infrastructure in place to continue to serve their rural customers. Bidding credits for small businesses (based on average gross revenues over the past three years of $75 million annually), bidding credits for sparsely populated areas and bidding credits for long term service providers are several ways the FCC can ensure mobile coverage continues and that 4G mobile broadband services are extended to these and other rural areas.

Most importantly, the FCC should craft a rule that mandates other carriers to utilize the rural networks that are available in rural and remote areas. The practice of blocking urban consumers from accessing rural carriers' networks when urban consumers are in rural areas is not in the public interest and harms *all* consumers. Not only does it deny service to urban consumers while they are traveling in rural areas, it denies rural carriers roaming revenue that would offset the need for universal service support.

To maintain integrity in the process and to comply with the law, RTG also supports the FCC's position that only those carriers with an ETC designation be eligible for Mobility Fund support.

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To: Wireless Telecommunications Bureau

Comments of the Rural Telecommunications Group, Inc.

The Rural Telecommunications Group, Inc. ("RTG"),[1] by its attorneys, hereby submits its comments in response to the Federal Communications Commission's ("FCC" or

[1] RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education. RTG's members have joined together to speed delivery of new, efficient, and innovative communications technologies to the populations of remote and underserved sections of the country. Many of RTG's members are competitive eligible telecommunications carriers. RTG's members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RTG's members serves less than 100,000 subscribers.

"Commission") Further Notice of Proposed Rulemaking ("FNPRM")[2] in the above-captioned proceeding.

I. THE FCC MUST ENSURE THAT IT DOES NO HARM TO EXISTING MOBILE VOICE AND BROADBAND SERVICE IN RURAL AREAS.

The first phase of the Commission's newly created Mobility Fund is intended to increase the availability of mobile broadband services in the United States by providing support on a one-time basis to expand current generation mobile wireless services. The Commission has proposed a second phase of the Mobility Fund to provide ongoing support to ensure the availability of 4G mobile broadband and voice services in areas where such service would not otherwise be available. RTG strongly supports the Commission's decision to provide ongoing universal service support for mobile wireless services.

As the Commission moves forward to craft the second phase of its Mobility Fund, the Commission must ensure that it does not harm existing rural mobile voice and broadband services. What drove the FCC to reform universal service support for broadband was the desire to more efficiently distribute funding and deploy more broadband to unserved areas. As the Commission transitions to Phase II of the Mobility Fund, its driving motivation must be to ensure that rural areas do not lose service or have existing coverage levels deteriorate as a result of decisions made about how to distribute ongoing support. In making every decision and crafting every detail of the second phase of the Mobility Fund, the Commission must ensure that

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[2] *Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10- 208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011) (*USF/ICC Transformation Order*).

existing mobile wireless voice and broadband service in rural areas is not harmed. Along these lines, RTG does not believe that a reverse auction is the correct manner to award ongoing support to rural areas and is concerned that many rural areas will lose service unless safeguards are in place to ensure that existing services are not lost. Additionally, the FCC must ensure that a well defined waiver process is in place to assist rural areas that may lose support as a result of the rules developed for the FCC's proposed reverse auction process.

II. REASONABLE ROAMING REGULATIONS WOULD INCREASE COVERAGE IN RURAL AREAS AND DECREASE RURAL CARRIERS' DEPENDENCY ON MOBILITY FUND SUPORT.

The Commission's current data roaming regulatory framework is structured in such a way that it unintentionally imposes a chilling effect on the actions of both rural carriers and the rural customers of wireless carriers, both large and small. Specifically, the Commission's new data roaming rules implemented last year allow larger carriers to set artificially inflated inter-carrier *wholesale* data roaming rates for roaming traffic between themselves and small, rural carriers. These inter-carrier rates are at levels that typically exceed, on a per-unit basis, the *retail* rates offered by the nationwide carriers. This entire construct causes public interest harms to all consumers and serves to benefit only the largest nationwide carriers.

Automatically, the economic framework of these roaming relationships debilitates the ability of most small, rural carriers to offer any semblance of nationwide coverage at a competitive retail price to rural consumers. Nonetheless, small and rural carriers, in an effort to remain competitive, typically offer nationwide coverage utilizing inter-carrier roaming agreements with the nationwide carriers, but they do so at great financial risk to themselves while causing significant harm to rural consumers. If small and rural carriers "eat" the higher costs of their customers' off-network roaming, it erodes or sometimes even depletes their operating income, making the entire offering unprofitable. Alternatively, if small and rural carriers simply pass along those inflated wholesale roaming charges to their customers at the retail level, eventually, those same customers will seek to switch service providers to one of the nationwide carriers (who do not provide service in the rural area) and will cause service in the rural area to die out. Alternatively, rural consumers will need to purchase two phones – one for rural coverage and one for urban coverage. Any exodus of subscribers is also a huge financial blow to a small or rural carrier. Some small and rural carriers try to stay out of the fray altogether by trying not to offer extended roaming coverage, but most Americans have come to expect their mobile device to work across the entire country, so a smaller footprint is a major hindrance to effective marketing and sales growth. The subscribers of the nationwide carriers are not exempt from the problems of commercially unreasonable roaming practices either. Nationwide carriers have increasingly turned-off roaming for their customers citing the larger carrier's sufficient coverage, whether actual or perceived, in rural markets. Thus, those customers of the nationwide carriers who travel into rural markets where their service provider has insufficient coverage are left with a poor customer experience which could have easily been remedied by use of a potential roaming partner's coverage in that same market. These problems can be alleviated, and Mobility Fund support can be best utilized, if the Commission imposes data roaming regulations that actually compel low rates across the board while at the same time incentivizing small and rural carriers' network build-out.

Low reciprocal data roaming rates for 3G and 4G service do three things, all of which benefit rural consumers and those consumers traveling into rural markets. First, low wholesale data roaming rates allow all rural customers to enjoy nationwide coverage at retail rates that will be competitive. Second, low wholesale data roaming rates should compel nationwide carriers in remote areas where they simply do not offer service or offer service only along the major highways to rely upon rural carriers to provide extended coverage in these truly hard-to-serve markets (i.e., national parks, tribal areas, oil and gas exploration areas) and make coverage in those markets available to urban and suburban customers who travel through these areas. Third, and perhaps most importantly, by creating an environment where inter-carrier wholesale data roaming rates are low enough to spurn an increase in overall traffic, small and rural carriers will be able to generate some consistent level of roaming revenue which in turn will decrease these rural carriers' dependency on Mobility Fund support. By putting a rule into effect that prohibits a carrier from blocking its customers from accessing a rural carrier's network where that rural carrier has service and the other carrier has none or has poor quality service, the FCC will be able to stretch its mobility fund dollars to expand mobile broadband services to rural and remote areas. RTG notes that in October 2004, the FCC conditioned the AT&T/Cingular merger on Cingular (now AT&T) not blocking its customers from roaming on rural carriers' networks where Cingular (now AT&T) had no available coverage.[3] In sum, the ability of large carriers to block their customers from being able to access rural carriers' networks not only disserves the public interest because consumers who subscribe to the big carriers services are denied mobile voice and broadband services where it is currently available, it denies rural carriers serving these areas revenues that would make them less reliant on universal service support. The FCC can remedy this by prohibiting carriers from blocking their customers from accessing the networks of other carriers when such service covers area unserved by the blocking carrier. Accordingly, RTG urges the FCC to adopt such a rule as part of this proceeding.

[3] *See In the Matter of Applications of AT&T Wireless Services, Inc. and Cingular Wireless Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, WT Docket No. 04-70, FCC 04-255 (released October 26, 2004) (Cingular/AT&T Order) at ¶ 182.

III. THE FCC SHOULD USE SPECIFIC CRITERIA THAT WILL ENABLE IT TO MAXIMIZE THE NUMBER OF RURAL AREAS ELIGIBLE FOR PHASE II SUPPORT.

A. The Commission Must Provide Certainty as to What Areas are Eligible for Phase II Support.

For Phase II of the Mobility Fund, the FCC proposes to provide support on a census block basis in areas where there is no private sector business case to provide mobile broadband and voice service.[4] Areas where at least one unsubsidized mobile wireless carrier is providing 3G or better services will not be eligible. The Commission proposes, and RTG agrees, that any provider that is offering 3G or better service at the time of a Mobility Fund Phase II auction in an area for which it receives Mobility Fund Phase I support should not be considered an unsubsidized carrier.[5] To ensure Phase I of the Mobility Fund is a success, areas that receive Mobility Phase I support must be eligible to receive ongoing Phase II support to ensure that the investment made as part of Phase II continues to be supported from an operations perspective.

As soon as possible, the FCC should clarify whether certain Tier I carriers will be classified as subsidized or unsubsidized carriers. The Commission has expressed its desire to begin Phase II disbursements as early as the third quarter of 2013. It is crucial that carriers have as much time as possible to prepare for the Phase II auction. Carriers must have all the details, including whether or not certain areas will be eligible to receive funding, in order to adequately prepare for the auction. The Commission should adopt a hard deadline for it to provide prospective auction applicants with the information necessary for them to develop a strategy for participating in Phase II of the Mobility Fund. Specifically, the Commission should establish a

[4] *USF/ICC Transformation Order* at ¶1123.

[5] *See USF/ICC Transformation Order*, footnote 2247.

date by which it will: (1) clarify whether each Tier I carrier will be classified as subsidized or unsubsidized; and (2) identify areas of eligibility based on whether there is 4G coverage. Declaring a deadline will also enable the Commission to impose a time for contesting certain FCC determinations, such as which areas are eligible, and a timeframe for resolving such appeals. The Commission should also clarify that changing the status of a carrier from subsidized to unsubsidized during the support term will not have an effect on the ability of other carriers to continue receiving support. For example, Verizon Wireless and Sprint have each agreed to give up their respective universal service support over a five year period as a condition for their respective transactions to be approved by the Commission.[6] The timing on when this support is eliminated impacts whether an area is eligible for Phase II support. The Commission must establish the timing and criteria as early as possible so rural carriers can prepare and participate or seek waivers if their areas become ineligible for support because Verizon and Sprint no longer receive support.

The Commission has proposed using American Roamer data to identify areas where there are mobile networks that offer service using EV-DO, EV-DO Rev A, UMTS/HSPA and HSPA+, LTE, and any other technologies offering equivalent speeds or better.[7] The Commission should create and put in place a process to ensure that the American Roamer data is current and accurate. Because of the way American Roamer data is collected (voluntarily self-reported), it

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[6] *See In the Matter of Sprint Nextel Corporation and Clearwire Corporation Applications for Consent to Transfer Control of Licenses, Leases, and Authorizations*, Memorandum Opinion and Order, WT Docket No. 08-94, FCC 08-259 (released November 7, 2008) at ¶ 107; *In the Matter of Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements*, Memorandum Opinion and Order and Declaratory Ruling, WT Docket No. 08-95, FCC 08-258 (released November 10, 2008) at ¶¶ 196-197.

[7] *USF/ICC Transformation Order* at ¶1124.

runs the risk of being inaccurate. Indeed because American Roamer data is used to develop coverage maps used in a carrier's sales and marketing material, it is in the carrier's interest to report as large a footprint as possible. RTG has determined that a carrier's coverage area as shown on American Roamer maps is often overestimated, sometimes underestimated, and in some instances not even available. Accordingly, there must be a way for a carrier to challenge the information used to determine whether a certain area is declared eligible or ineligible due to the presence of an existing carrier's service. Additionally, there must be a way for carriers to respond to a challenge. The challenge and response process should have a standardized format, and after the eligible areas are announced, a specific response window should open for carriers to challenge the FCC's findings.

The Commission is also seeking comment on "whether there are …methods other than the centroid method that [the FCC] should consider in determining whether particular census blocks should be excluded from eligibility for support…."[8] The Commission should consider allowing bids for areas where large portions of a census block would otherwise be considered ineligible because the centroid is covered. For example, in rural areas where an unsubsidized carrier may be providing service, but where the service is spotty at the outer edges, and the centroid is covered, but 50% or more of the census block is uncovered, the FCC should consider the census block unserved and allow bidding to occur. Because of the spotty coverage, consumers consider these areas unserved. Allowing these portions to be deemed eligible for support will help maximize coverage in these rural areas. In such areas, the Commission would be supporting more than one carrier, something that it is interested in doing only if it would

[8] *Id.*

maximize coverage.[9] Rural areas where existing providers' coverage at the edge of the network is unreliable are exactly the types of places where an additional provider's network will maximize coverage. The Commission should work with carriers to identify such areas.

B. The Commission Must Consider Local and Unpaved Roads When Determining the Units Associated with Each Eligible Area.

In Phase I of the Mobility Fund, the FCC will use the number of linear road miles as the basis for calculating the number of units in each unserved census block.[10] In the Phase I pre-auction process, the FCC expects to identify the specific road categories that will be considered, such as interstate highways, etc. Using road miles as the basis for calculating the number of units in each unserved census block will be consistent with the Commission's goal of extending coverage to areas where people live, work, and travel.[11] The Commission should ensure that the same road categories are used for both Phase I and Phase II so that consistency is used in calculating bids. This means that the FCC should allow for all types of roads to be included, including unpaved roads in both Phase I and Phase II.

For Phase II of the Mobility Fund, the FCC also proposes to base the number of bidding units on the number of road miles in each eligible geographic area.[12] The FCC anticipates using the road categories within the U.S. Census Bureau's TIGER[13] road data. RTG supports the FCC's proposed use of the following road categories: primary, secondary, and local and

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[9] *See e.g., USF/ICC Transformation Order* at ¶1136.

[10] *See USF/ICC Transformation Order* at ¶¶349-353.

[11] *Id.* at ¶353.

[12] *Id.* at ¶¶1134-1135.

[13] Topologically Integrated Geographic Encoding and Referencing, http://www.census.gov/geo/www/tiger/tgrshp2010/documentation.html.

encourages the FCC to use these same categories for Phase I.[14] The Commission should also include vehicular trails (4WD) and private roads for service vehicles in the list of road categories that will determine the number of bidding units in each eligible area for both Phase I and Phase II. In rural areas, vehicular trails (4WD) are often as traversed as the roads that fit the "local neighborhood road, rural road, city street" category (S1400). Likewise, private roads for service vehicles must be included because these roads are crucial to rural economies. Examples of these are roads within private mining areas, access roads to natural gas and oil facilities, roads serving ranching areas, and roads serving forestry and logging industries. Though they are privately owned, these roads have heavy traffic and are often used continuously. To meet the goal of providing mobile voice and broadband to areas where Americans live, work, and travel, the Commission must consider all roads that are commonly used in rural and remote areas in both Phase I and Phase II.

C. If the FCC Prioritizes Support, It Should Ensure that Areas That Already Have Mobile Wireless Coverage Do Not Lose Coverage as a Result.

In the FNPRM, the FCC asks whether it should prioritize support to areas that currently lack any mobile wireless service or areas where mobile service exists at lower than current generation or 3G levels.[15] The FCC's first priority when distributing Phase II support should be to not harm existing coverage in hard-to-serve areas throughout the United States. Areas that already have some form of coverage should not be put at risk of losing that coverage. Some form of priority should be given to those areas that have no coverage. However, the FCC needs to recognize that these areas will cost more to serve, and if the Commission intends to put these

[14] *USF/ICC Transformation Order* at ¶1135.

[15] *Id.* at ¶ 1132.

areas on equal footing with areas that are already served, the Commission may need to create some form of bidding credit to do so. In structuring the auction, the FCC may want to consider grouping areas that lack 2G coverage or any form of basic mobile service in an auction separate and apart from those areas that are seeking to upgrade from 2G, 2.5G and 3G services to 4G services so that these, in essence, green field areas that do not have existing wireless infrastructure to piggyback on stand a chance of getting support. Presumably a green field area will be much more costly to serve than an area that already has some level of mobile service. Comparing bids that equate green fields to green fields versus green fields to areas looking to upgrade from 3G to 4G will put the bids on more equal footing.

The FCC is also seeking comment on prioritizing coverage to any areas in which previously provided support is being phased down and there is a risk of meaningful loss of coverage.[16] The Commission has correctly recognized that there are rural areas where basic mobile services, not just 3G or 4G services, will be at risk without sufficient high-cost support. Existing areas should receive priority to ensure that service is not turned down as a result of the Phase II rules. Bidding credits should be given to carriers in this situation. In the event the rural carriers are unsuccessful in obtaining funding through the Phase II process and are at risk of losing service, the Commission should utilize a fast-track waiver process for any carrier that will have to shut off part of its mobile wireless network because of the current support phase down or failure to receive Phase II support. Under the fast-track waiver process, the carrier will continue to receive support until the FCC acts on its waiver request. The FCC should make every attempt to act on these waiver requests within 180 days. If the FCC action is unfavorable, the rural carrier should be given a period of 180 days to wind down its service before support is lost.

[16] *Id*. at ¶ 1133.

IV. THE COMMISSION SHOULD ADOPT A BIDDER-DEFINED APPROACH WHEN AGGREGATING CENSUS BLOCKS FOR COMPETITIVE BIDDING.

RTG agrees with the Commission that its Phase II auction rules should provide for the aggregation of census blocks for purposes of bidding, and RTG urges the Commission to adopt a bidder-defined approach for such aggregation. Under a bidder-defined approach, carriers will have more flexibility to make bids that specify a set of census blocks to be covered, and a total amount of support needed. This flexibility would allow carriers to better target support within their service areas. From a carrier's perspective, it makes sense to follow a carrier's licensed service area. If rural carriers in particular are able to define Phase II eligible areas, they could roll together all of their low-cost areas within their licensed area. Indeed, this could even tie into a bidding credit for areas that have extremely low population density.

Under a bidder-defined approach the Commission proposes that Phase II support recipients be required to provide coverage meeting their public service obligations to a higher percentage, perhaps to all, of the unserved units within census blocks, whereas the census tract approach would target 75% coverage of the unserved units or road miles. Though RTG supports a bidder-defined approach and maximizing coverage, a 100% coverage requirement is unrealistic particularly for remote areas. The Commission should allow some wiggle room to make adjustments as the build out occurs and set benchmarks for the flow of support. Allowing carriers to meet a 95% coverage standard for bidder defined coverage areas and adjusting support levels downward if the 95% is not met within a six to eight year period would allow bidders to adjust to future unknown or unplanned situations without the risk of losing support for areas already covered and would also prevent a drain on FCC resources by preventing the need for winning bidders to unnecessarily burden the FCC with requests for extensions or waivers.

To assist carriers with matching up the geographic areas in which they are interested with the blocks available in the Phase II auction, the Commission proposes making information available through several bidder tools. RTG urges the Commission to make these bidder tools available to carriers as soon as possible. Specifically, bidders need access to mapping tools to determine road miles within census blocks as well as information on 4G coverage areas on a date certain (and well before the auction). Carriers will want to acquire this information long before it is made final by the FCC and will want access to the America Roamer data for 4G coverage too. The type of tools and information the FCC will make available will likely depend on how the auction is constructed so RTG does not consider this an extensive list and reserves the right to comment further as the process develops. However, RTG requests that the FCC establish a cut-off date of where 4G services are available so that this information is available to the public at least nine months before the auction begins to allow for planning and bidding on the unserved areas. It will be crucial to get this information in the hands of potential auction participants so they can both decide whether to participate and to formulate a bidding strategy.

Additionally, because a Phase II auction will have been preceded by a Phase I auction in 2012, RTG encourages the Commission to initiate another comment cycle after the Phase I auction to assess the success and effectiveness of the method utilized (if any) to aggregate census blocks.

V. THE COMMISSION SHOULD EMPLOY BIDDING CREDITS FOR SMALL BUSINESSES AS WELL AS FOR DEMONSTRATED RURAL COVERAGE.

The Commission should award bidding credits to carriers that are small businesses or meet certain public interest objectives associated with delivering mobile broadband to unserved markets. Specifically, as part of Phase II auction process, and in order to initiate and maintain economic development in rural areas, the Commission should grant carriers bidding credits that would be used to lower their bid amounts for meeting additional criteria that are deemed in the public interest. The specific criteria to qualify for a bidding credit should include status as a small business, proposing to serve low population density areas and demonstrated long term provision of service to rural areas.

Small Business. Bidding credits should be awarded to carriers that are small businesses. The Commission proposes the use of a small business definition in the Phase II context based on an applicant's gross revenues, as it has done for competitive bidding for many wireless services licenses (i.e., an entity with average gross revenues not exceeding $40 million for the preceding three years).[17] Alternatively, the Commission asks whether it should consider a more expansive definition, such as average gross revenues not exceeding $125 million for the preceding three years. After polling its members, RTG urges the Commission to raise the threshold amount of average gross revenues for the small business definition to be used for Phase II auction bidding credits to a threshold of $75 million averaged out over the prior three years. RTG encourages the Commission to offer a 25% bidding credit to these entities. RTG's members are extremely small, each member serving 100,000 or fewer subscribers with most of RTG's members serving 10,000 or fewer subscribers. The annual average gross revenues of these companies (including affiliated companies) typically range from $11 million to $65 million. Over half of RTG's members are also affiliated with a rural telephone company or have companies with affiliates that would contribute to the overall gross revenues when determining whether the company qualifies as a small business under the FCC's traditional small business biding credit rules used in spectrum auctions. Because some of RTG's members range higher than $65 million annually and to allow for growth, RTG believes the cap for a small business should be raised to $75

[17] *USF/ICC Transformation Order* at ¶1160.

million and the bidding credit should be 25% less than the amount bid if the bidder meets the definition of having average gross revenues not exceeding $75 million for the preceding three years.

The Commission also asks how gross revenues of affiliates should be attributed. The Commission should employ its current designated entities rule as set forth in Section 1.2110 of its rules (i.e., the gross revenues of the applicant (or licensee), its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship shall be attributed to the applicant (or licensee) and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules),[18] and attribution rule as guidelines for bidder discounts in Phase II.

Rural Coverage Credit. Bidding credits should also be awarded to carriers already providing mobile wireless service to rural communities and serving few people per square mile. The size of the credit should increase with the proportion of rural coverage area and the length of time the carrier has served the area (*e.g.*, 100% rural receives the largest credit, 75-99% rural receives the next largest credit, 51-74% rural receives the next largest credit, etc.). The Commission is already proposing to base the number of bidding units and the corresponding coverage requirement on the number of road miles in each eligible geographic area.[19] If a carrier is serving road miles that cover areas that have a population density of certain numbers of households per square mile they should receive proportionally sized bidding credits (*e.g.*, ten or

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[18] 47 C.F.R. § 1.2110(b)(1)(i).

[19]*USF/ICC Transformation Order* ¶1134.

less households per square mile would receive a 10% bidding credit; 11-25 households per square mile would receive a 5% bidding credit).

Length of Service to Rural Area Credit. Additionally, bidding credits should also be awarded to carriers with a history of offering telecommunications services to rural markets, with the size of the credit increasing with the number of years of service (*e.g.*, five or more years would receive a 5% credit; ten or more years would receive a 10% credit; 15 or more years would receive a 15% credit; 20 or more years would receive a 20% credit; capping out at 20%). For example, a carrier that has served a specific rural region for ten or more years would get a 10% credit on its bid. Thus, if a carrier providing service for ten years or more bids $100,000 for a specific area, the FCC should consider that a lower $90,000 bid. Such credits will reward carriers that have already made a long-term commitment to serving some of the most high-cost areas of the nation. Further, such credits will allow small, rural carriers to outbid better-financed carriers who have not previously made a commitment with their own resources and have no "skin in the game." The longer period of time a carrier has served an area the larger credit it should be awarded because this demonstrates a long-term commitment to ensuring the economic viability and development of the rural area.

Each of these bidding credits should be cumulative in nature and one should not be given priority over the other. Additionally, because a Phase II auction will have been preceded by a Phase I auction in 2012, RTG encourages the Commission to initiate another comment cycle after the Phase I auction to assess the success and effectiveness of bidding credits offered.

VI. THE COMMISSION MUST TAKE INTO CONSIDERATION THE MISTAKES AND SUCCESSES OF THE FIRST PHASE OF THE MOBILITY FUND WHEN FORMULATING THE MECHANISM TO DISTRIBUTE PHASE II SUPPORT.

To distribute ongoing support under Phase II of the Mobility Fund, the Commission proposes using a reverse auction mechanism based heavily on, if not identical to, the one that will be used to distribute Phase I support. It is difficult at this time to comment with absolute certainty on the Phase II reverse auction mechanism because the Commission has not released any further details concerning Phase I. Presumably, the Commission's Wireless Telecommunications and Wireline Competition Bureaus are currently developing an auction procedure Public Notice which will propose the structure of the reverse auction that will be used in Phase I. After receiving comment, the bureaus will then issue a Public Notice adopting certain Phase I procedures. The Commission will not know with certainty whether it correctly designed the Phase I reverse auction until sometime after it has ended.

If the Commission is going to draw heavily from Phase I of the Mobility Fund when creating the Phase II distribution mechanism, it must take into consideration what worked and what did not work in Phase I. For this reason, the Commission should hold off on setting any final details for the Phase II reverse auction until after Phase I of the Mobility Fund is complete. This will give the Commission and the industry time to evaluate the process and results of Phase I. It is crucial that the Commission learn what works and what does not work. The Commission should release a Phase II further notice of proposed rulemaking sometime after the completion of the Phase I auction. The FNPRM will then give parties a chance to explain what worked and why and how improvements to the distribution mechanism processes should be transferred over to Phase II.

VII. THE COMMUNICATIONS ACT MANDATES THAT ONLY ELIGIBLE TELECOMMUNICATIONS CARRIERS ARE ELIGIBLE TO RECEIVE SUPPORT FROM PHASE II OF THE MOBILITY FUND.

For Phase I of the Mobility Fund, the Commission correctly determined that carriers seeking to participate in the auction for support must be an eligible telecommunications carrier (ETC) in the areas for which they will seek support at the deadline for applying to participate.[20] In fact, the Communications Act of 1934, as amended ("the Act") requires the Commission make such a determination. Only an ETC designated under section 214(e) of the Act is eligible to receive specific Federal universal service support.[21] Further, pursuant to Section 214(e), ETCs must be telecommunications carriers and common carriers.[22] Accordingly, the FCC lacks the authority to provide support from Phase II of the Mobility Fund or any other Connect America Fund mechanism to non-ETCs.

Allowing carriers that have not been designated as an ETC to participate in, or receive support from, the Mobility Fund would violate universal service provisions outlined in the Act. Phase II of the Mobility Fund must comply with the requirements of the Act and ensure that support flows to ETCs as Congress intended. There is no ambiguity or leeway in the Act for the Commission to do otherwise. The Commission cannot ignore or eliminate the requirements of the Communications Act that restrict universal service support to ETCs. For these reasons, the Commission should reject proposals that encourage making non-ETCs eligible for participation in Phase II of the Mobility Fund.

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[20] *Id.* at ¶389.

[21] 47 U.S.C. § 254(e).

[22] 47 U.S.C. § 214(e)(1).

VIII. THE PHASE II TERM OF SUPPORT AND PERFORMANCE REQUIREMENTS SHOULD PROVIDE CARRIERS WITH CERTAINTY IN ORDER TO FORMULATE NETWORK DEPLOYMENT PLANS AND RECOVER NETWORK INVESTMENT.

A. The Commission's Proposed Ten-Year Term for Mobility Fund Phase II Support is Reasonable.

To ensure certainty for carriers, the Commission should adopt a fixed support term of ten years. Anything shorter would not provide sufficient certainty for establishing long-term business plans and forecasting for long-term development and improvement of networks. Rural wireless networks generally have a longer expected life of use in comparison to urban networks. Because the return on investment for rural networks is lower than for urban networks, rural wireless networks generally have a longer expected life. Setting the term of support at ten years will place Phase II disbursements in line with the way rural carriers plan and set up their networks.

In order to remain qualified for the Phase II ongoing support, providers will be required to construct a network offering 4G service in their supported area. Network build-out plans are easier to propose than to actually carry-out. On paper, carriers may be able to conceive a well-planned network build-out. Yet, the realities of implementing these plans are often very different. Wireless network construction schedules are easily hampered by things like weather, access to rights-of-way, equipment availability, environmental reviews, and other tower siting issues. Because of such unforeseen circumstances, for many carriers that are providing 2G and 2.5G service, making the jump to 4G throughout an entire large service area in only a few years would be unrealistic. The minimum period for deployment of a 4G network in a carrier's entire service area should be set at six years. The Commission could also consider a phased 4G deployment schedule that contains yearly benchmarks. However, the Commission should also institute a well-defined waiver process for carriers that are unable to fulfill deployment commitments due to circumstances beyond their control.

The FCC should also adopt a renewal process for support that embraces a renewal expectancy similar to the one in place for FCC licenses if buildout and service obligations have been met.

B. The Proposed Mobility Fund Performance Requirements are Reasonable and any Attempt to Increase Them Should be Made Gradually.

The FCC proposes that, "as for Mobility Fund Phase I recipients that elect to offer 4G service, recipients of Mobility Fund Phase II support will be required to provide mobile voice and data services that meet or exceed a minimum bandwidth or data rate of 768 kbps downstream and 200 kbps upstream, consistent with the capabilities offered by representative 4G technologies."[23] The "data rates should be achievable in both fixed and mobile conditions, at vehicle speeds consistent with typical vehicle speeds on the roads covered."[24] The FCC further proposes that the "minimum standards must be achieved throughout the cell area, include at the cell edge, at a high probability, and with substantial sector loading."[25] The Commission's initial data rate requirements of 768 kbps downstream and 200 kbps upstream are reasonable. Any attempts to modify the performance requirements during the term of support to reflect advances in technology must be made carefully and do no harm to the provision of service to the public.

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[23] *USF/ICC Transformation Order* at ¶1142.

[24] *Id.*

[25] *Id.*

IX. CONCLUSION.

The Commission and the industry are at a turning point in the way the FCC distributes universal service support. American consumers are continuing to turn to mobile services for communications in their daily lives and for work. As the Commission moves forward, it must ensure that the rural wireless networks that were built and maintained using support from the legacy universal service mechanisms are not harmed by the transition to the Mobility Fund and the Connect America Fund. The Commission must take steps to ensure that the decisions it makes to create the framework for Phase II of the Mobility Fund and to determine where ongoing support is distributed do not result in a reduction or elimination of mobile wireless services in rural areas. Ongoing support for mobile wireless services allows rural carriers like RTG's members to operate networks in hard-to-serve, rural areas, and reach rural consumers and those traveling in rural areas that would otherwise not have mobile voice and data services. Ensuring that RTG's members who have a long history of serving rural consumers and those consumers traveling in rural areas will have a meaningful opportunity to continue to receive ongoing support to bring 4G mobile broadband services to these areas is in the public interest.

Respectfully submitted,

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