

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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 a 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
	)	
Universal Service Reform -- Mobility Fund	)	WT Docket No. 10-208

**COMMENTS OF T-MOBILE USA, INC.**

T-Mobile USA, Inc. (“T-Mobile”) comments on the universal service fund (“USF”) issues raised by the Further Notice of Proposed Rulemaking (“FNPRM”) in connection with the *CAF Order*.<sup>1</sup>

**I. INTRODUCTION**

The wireless telecommunications sector will play an increasingly significant role in promoting the National Broadband Plan (“NBP”) goal of building out next generation services.<sup>2</sup>

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<sup>1</sup> Report and Order and Further Notice of Proposed Rulemaking, *Connect America Fund*, WC Docket No. 10-90, FCC 11-161 (Nov. 18, 2011). The Report and Order is cited herein as *CAF Order*, and the Further Notice of Proposed Rulemaking is cited as FNPRM.

<sup>2</sup> Federal Communications Commission Omnibus Broadband Initiative, *Connecting America: The National Broadband Plan* at 146-48 (2010) (“NBP”), available at <http://download.broadband.gov/plan/national-broadband-plan.pdf>.

The NBP commits the United States to continue its leadership role in mobile broadband innovation and concludes that “[m]obile broadband is the next great challenge and opportunity for the United States.”<sup>3</sup> Meeting that challenge will require the unique contribution of the wireless sector as the Commission completes its universal service and intercarrier compensation (“ICC”) reforms and transitions the legacy high-cost USF program to the Connect America Fund (“CAF”) and Phase II of the Mobility Fund.<sup>4</sup> The scope of the FNPRM reflects the tremendous amount of work that remains in reforming the USF and ICC regimes, and, as a leading independent provider of mobile voice and broadband services, T-Mobile intends to remain fully active and engaged in that effort.

The FNPRM primarily focuses on the proper distribution mechanism for Mobility Fund Phase II support, seeking comment on the use of economic cost models, either in tandem with reverse auctions or as an alternative mechanism to distribute support.<sup>5</sup> T-Mobile believes that it would be premature for the Commission to decide now on the use and structure of reverse auctions, which it has never adopted for any purpose, even on a pilot basis. The Commission and the industry will learn a great deal from the results of the Mobility Fund Phase I auctions to be held later this year. Those lessons can usefully be applied in determining whether and how reverse auctions should be used in distributing Mobility Fund Phase II support next year.<sup>6</sup>

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<sup>3</sup> *Id.* at 9.

<sup>4</sup> Over one-third of American adults own smartphones, and 87 percent of all smartphone owners access the Internet or e-mail on their handheld devices. See Aaron Smith, Pew Internet and American Life Project, *Smartphone Adoption and Usage* (July 11, 2011), available at <http://pewinternet.org/Reports/2011/Smartphones/Summary.aspx>.

<sup>5</sup> FNPRM at ¶¶ 1174-88.

<sup>6</sup> See *CAF Order* at ¶ 28. See also Reply Comments of T-Mobile USA, Inc. at 20, *Connect America Fund*, WC Docket No. 10-90 (filed May 23, 2011) (proposing pilot reverse auction programs) (“T-Mobile Transformation Reply Comments”).

In the meantime, the Commission should consider how economic cost models might best be used. T-Mobile has been evaluating the merits of a forward-looking economic cost model to calculate the costs of 4G wireless mobility and broadband services and, by comparing costs with estimated revenues, to estimate the support necessary to provide those services in high-cost areas that are not economically viable. Depending on the outcome of its analysis, T-Mobile may submit a cost model in this proceeding. Rather than the single-winner reverse auctions proposed in the FNPRM,<sup>7</sup> support determined by a forward-looking economic cost model could be distributed in a competitively neutral manner that satisfies the requirements of Section 254 of the Communications Act of 1934.<sup>8</sup>

## **II. THE COMMISSION'S USF REFORMS SHOULD FACILITATE COMPETITION**

### **A. A Forward-Looking Cost Model Could Be Used To Distribute Support**

The Commission has adopted economic cost models to determine the amount of high-cost support in non-rural incumbent wireline areas<sup>9</sup> as well as the amount of CAF Phase I incremental support and CAF Phase II support in price cap areas.<sup>10</sup> The Commission has not used forward-looking economic cost models to determine support in rural areas based upon a concern that rural incumbent wireline carrier diversity and higher costs undermine the ability of cost models to predict rural service costs.<sup>11</sup> The tremendous economies of scale that mobile

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<sup>7</sup> FNPRM at ¶ 1136.

<sup>8</sup> 47 U.S.C. § 254.

<sup>9</sup> See *CAF Order* at ¶ 130 n.206.

<sup>10</sup> *Id.* at ¶¶ 132-78. The FNPRM seeks comment on using a forward-looking cost model to determine Mobility Fund Phase II support levels or, alternatively, to set maximum bidding levels in a reverse auction. FNPRM at ¶¶ 1185-86.

<sup>11</sup> See *Federal-State Joint Board on Universal Service*, 16 FCC Rcd 11244, 11247-48, 11257, ¶¶ 4-5, 8, 26 (2001) (subsequent history omitted).

wireless networks have generated, however, render mobile wireless service costs well suited for predictive economic modeling.

As demonstrated by the cost model set forth in the NBP, a properly constructed cost model along the lines of the US Cellular and MTPCS models could promote competitive neutrality, provide proper investment incentives and increase competition.<sup>12</sup> Mobility Fund support based on a forward-looking economic cost model should be distributed in a manner that ensures that a single subsidized provider could not drive out unsupported competitors, thereby depriving consumers of desired choices. The success of the independent wireless sector demonstrates the value of competition in bringing better services to the widest base of consumers at the lowest cost. To address any concerns that multiple ETCs in an area would increase the total amount of Mobility Fund support, a predetermined level of support for a given area could be divided evenly among the ETCs serving that area, as proposed by MTPCS.<sup>13</sup> Whether Phase II support is allocated to one recipient or to multiple recipients in the same service area, however, the distribution of support should be structured so as to satisfy the statutory competitive neutrality and portability requirements without threatening the viability of the Mobility Fund.<sup>14</sup>

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<sup>12</sup> See, e.g., Comments of United States Cellular Corporation at 25-26, *Universal Service Reform*, WT Docket No. 10-208 (filed Dec. 16, 2010); Comments of United States Cellular Corporation at 18-22, *Connect America Fund*, WC Docket No. 10-90 (filed July 12, 2010). The FNPRM requests comment on the US Cellular and MTPCS models, see FNPRM at ¶¶ 1125, 1176, as well as their proposals to permit multiple providers in a given area to receive a level of support determined by a model. *Id.* at ¶ 1186.

<sup>13</sup> Comments of MTPCS, LLC d/b/a Cellular One at 20, *Connect America Fund*, WC Docket No. 10-90 (Aug. 24, 2011) (“A CETC may be required to divide its support with other CETCs, and collectively the entities could never exceed the total modeled support for the area.”).

<sup>14</sup> See, e.g., *Alenco Commc’ns, Inc. v. FCC*, 201 F.3d 608, 616, 620-22 (5<sup>th</sup> Cir. 2000).

**B. If The Commission Ultimately Adopts Reverse Auctions To Distribute USF Support, It Should Impose Safeguards To Preserve Competition**

T-Mobile urges the Commission to delay a final decision to use reverse auctions for Mobility Fund Phase II until after it completes the Mobility Fund Phase I auctions. If the Commission, nevertheless, is inclined to consider reverse auctions at this point, it should consider several safeguards to help ensure their success.

For example, the largest carriers do not need additional support and might submit “low-ball” bids that would not cover their forward-looking costs, or even zero bids, in an effort to deprive smaller rivals of any Mobility Fund support. T-Mobile accordingly has strongly urged that the Commission limit both the geographical area(s) for which any single entity and its affiliates can be awarded support in any one auction and the amount of support, expressed as a percentage or dollar amount, that a single entity and its affiliates can be awarded in any one auction.<sup>15</sup> These limits would ensure that no single entity could dominate a Phase II auction and thus would preclude smaller competitors from being shut out of needed support.

If the Commission adopts a “Bidder-Defined Approach” to package bidding, it also should impose restrictions on the packages that bidders could select, both in order to preclude a single entity and its affiliates from dominating an auction and to ensure that less desirable, higher-cost areas are included in packages.<sup>16</sup> A related condition could require parties

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<sup>15</sup> See Comments of T-Mobile USA, Inc. at 23, *Connect America Fund*, WC Docket No. 10-90 (filed Aug. 24, 2011); T-Mobile Transformation Reply Comments at 21; Comments of T-Mobile USA, Inc. at 8-9, *Universal Service Reform*, WT Docket No. 10-208 (filed Dec. 16, 2010) (“T-Mobile Mobility Fund Comments”). See also FNPRM at ¶ 1137 (requesting comment on whether there should be a limit on the number of geographic areas for which a provider may be awarded Phase II support).

<sup>16</sup> See T-Mobile Transformation Reply Comments at 20; T-Mobile Mobility Fund Comments at 3, 7. See also FNPRM at ¶¶ 1129-31. The higher-cost areas that would be covered by Mobility Fund Phase II auctions would not include the extremely high-cost areas to be addressed by the Remote Areas Fund. See FNPRM at ¶¶ 1223- 95.

submitting package bids also to submit bids for the blocks or tracts comprising the packages in order to give the Commission more flexibility in choosing among bids.<sup>17</sup>

Reverse auctions also could encourage a more competitive market if more than one bidder could be awarded support in a given area under certain conditions.<sup>18</sup> Although the FNPRM does not contemplate multiple winner auctions, it does ask whether any overlap between winning bids should be permitted if that result would maximize coverage or whether such overlap would “unduly compromise our objective to maximize consumer benefits.”<sup>19</sup> Substantially overlapping winning bids would not “compromise” the Commission’s goals, but would facilitate competition by allowing more than one efficient provider to serve a given area. Support recipients also should be required to allow the collocation of additional equipment and to comply with voice and data roaming requirements, as are required for Phase I recipients.<sup>20</sup>

In comparing bids, the Commission also should take into account bidders’ spectrum holdings so that carriers with spectrum in the lower bands are not afforded an unfair advantage due to lower build out costs over those with higher band spectrum holdings. As the Commission recognized in the *AT&T/Qualcomm Order*, lower-frequency spectrum possesses superior

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<sup>17</sup> See T-Mobile Transformation Reply Comments at 20-21; T-Mobile Mobility Fund Comments at 7-8. See also FNPRM at ¶¶ 1154-56.

<sup>18</sup> See T-Mobile Mobility Fund Comments at 3; Reply Comments of T-Mobile USA, Inc. at 11, *Connect America Fund*, WC Docket No. 10-90 (filed Aug. 11, 2010) (“T-Mobile CAF Reply Comments”); Reply Comments of T-Mobile USA, Inc. at 7-10, *Federal-State Joint Board on Universal Service Seeks Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, WC Docket No. 05-337 (filed Nov. 8, 2006).

<sup>19</sup> FNPRM at ¶ 1136. See also *id.* at ¶ 1129.

<sup>20</sup> See T-Mobile Mobility Fund Comments at 12. See also FNPRM at ¶ 1148. Also, single-round bidding would be more pro-competitive than multiple round bidding because large carriers would be in a better position than smaller carriers to exploit successive rounds of bidding by adjusting their bidding strategies. See T-Mobile Mobility Fund Comments at 16. See also FNPRM at ¶ 1155.

propagation characteristics that create certain advantages in the provision of mobile wireless broadband service, especially in rural areas.<sup>21</sup>

The same pro-competitive conditions and requirements also should be imposed on the competitive bidding process that is applied in areas served by price cap carriers that decline a statewide commitment.<sup>22</sup> Without the safeguards proposed above, the largest carriers could dominate that process to the same extent that they could dominate Mobility Fund Phase II auctions.<sup>23</sup>

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<sup>21</sup> *Application of AT&T Inc. and Qualcomm Inc.*, WT Docket No. 11-18, FCC 11-188, at ¶¶ 49-51 (Dec. 22, 2011) (citing *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fifteenth Report, 26 FCC Rcd 9664, 9832-37 ¶¶ 289-297 (2011); *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fourteenth Report, 25 FCC Rcd 11407, 11570-76 ¶¶ 268-280 (2010) (“14<sup>th</sup> Wireless Competition Report”)); *see also 14<sup>th</sup> Wireless Competition Report*, 25 FCC Rcd at 11571 ¶ 269 n.731 (citing *United States of America v. AT&T Inc. and Dobson Communications Corp.*, Competitive Impact Statement, Case No. 1:07-cv-01952 (D.D.C. filed Oct. 30, 2007) (citation omitted)) (“...the propagation characteristics of [1900 MHz PCS] spectrum are such that signals extend to a significantly smaller area than do 800 MHz cellular signals. The relatively higher cost of building out 1900 MHz spectrum, combined with the relatively low population density of the areas in question, make it unlikely that competitors with 1900 MHz spectrum will build out their networks to reach the entire area served by’ the two 800 MHz Cellular providers.”).

<sup>22</sup> *See* FNPRM at ¶¶ 1189-1222.

<sup>23</sup> In addition, mobile wireless carriers should not be subject to the same speed standard and other performance requirements as incumbent wireline carriers that accept statewide commitments. *See* FNPRM at ¶¶ 1203-04 (seeking comment on relaxing the minimum performance requirements to expand the pool of technologies eligible to compete for support). Rather, the Commission should adopt its alternative proposal that bidders be permitted to offer different performance characteristics in order to enable mobile wireless carriers to participate, and that bids be scored based on their performance on these characteristics. *See id.* *See also* T-Mobile Transformation Reply Comments at 22-23 (for purposes of USF support, broadband service definition should not be limited to speed requirements associated with wireline technology).

**C. The Commission Should Not Confer Special USF Benefits On Rate Of Return Carriers**

The Commission should not expend the significant effort that would be required to create a new broadband-focused CAF mechanism for rate-of-return (“RoR”) carriers, as proposed by the Rural Associations,<sup>24</sup> because retaining support mechanisms insulating RoR carriers from competitive pressures would be unfair and anti-competitive. Mobile providers do not benefit from the protections of RoR regulation, yet increasingly are competing with RoR carriers in both the voice and broadband service markets. Therefore, the Commission should not continue to provide special treatment to RoR carriers but should eliminate inefficient RoR regulation and apply the same CAF support mechanism in all incumbent wireline service areas.<sup>25</sup> If RoR regulation is retained, the authorized RoR should be reduced from its current excessive 11.25 percent to market levels, which the Commission’s preliminary analysis shows is about six to eight percent.<sup>26</sup> The High-Cost Loop Support (“HCLS”) cap and Interstate Common Line Support (“ICLS”) also should be reduced a corresponding amount.<sup>27</sup>

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<sup>24</sup> See FNPRM at ¶¶ 1031-43.

<sup>25</sup> See Comments of T-Mobile USA, Inc. at 10, *Connect America Fund*, WC Docket No. 10-90 (filed Apr. 18, 2011) (RoR regulation should be eliminated over a five-year transition) (“T-Mobile Transformation Comments”); T-Mobile Transformation Reply Comments at 14-15 (NBP confirms inefficiency of RoR regulation; RoR carriers should be converted to incentive regulation); T-Mobile CAF Reply Comments at 4-6; Comments of T-Mobile USA, Inc. at 7, *Connect America Fund*, WC Docket No. 10-90 (filed July 12, 2010) (“T-Mobile CAF Comments”).

<sup>26</sup> See T-Mobile Transformation Comments at 12. See also FNPRM at ¶¶ 1044-57.

<sup>27</sup> See T-Mobile Transformation Reply Comments at 15 (HCLS should be reduced); T-Mobile CAF Comments at 7 (ICLS should be capped on a per line basis). See also FNPRM at ¶ 1058.

**D. The Commission Should Relax Service Obligations For Carriers Whose Support Is Reduced Or Eliminated**

Carriers' Section 214(e) public interest obligations should be relaxed where their CAF or Mobility Fund support is reduced.<sup>28</sup> T-Mobile and other carriers have argued that, in order to clarify service obligations associated with public funding, an ETC's Section 214(e) obligations should be limited to the specific geographical area where it is receiving support.<sup>29</sup> In addition, where support is reduced or eliminated, carriers' concomitant service obligations also should be reduced or eliminated commensurately. Carriers should not be forced to choose between full performance of their service commitments and relinquishment of ETC status where support is no longer sufficient to meet their obligations.

**III. CONCLUSION**

The USF-related reforms addressed in the FNPRM should be implemented in the manner advocated above in order to encourage the widespread deployment of mobile voice and

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<sup>28</sup> See FNPRM at ¶¶ 1089-1101.

<sup>29</sup> See, e.g., T-Mobile Transformation Reply Comments at 25.

broadband services and to maintain the vigorous level of competition that characterizes the mobile wireless sector.

Respectfully submitted,

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