

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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
Universal Service Reform – Mobility Fund	WT Docket No. 10-208

**REPLY OF SOUTHERNLINC WIRELESS IN SUPPORT OF
OPPOSITIONS TO T-MOBILE USA, INC'S PETITION
FOR RECONSIDERATION OR CLARIFICATION**

SouthernLINC Wireless submits this reply in support of the oppositions filed in response to T-Mobile USA, Inc's ("T-Mobile") Petition for Reconsideration or Clarification in the above referenced docket.¹ SouthernLINC Wireless respectfully requests that the Federal Communications Commission ("FCC" or "Commission") deny T-Mobile's Petition in full. As the oppositions filed in response to the T-Mobile Petition demonstrate, nothing in T-Mobile's Petition justifies providing T-Mobile with the additional transitional USF support requested in its Petition. Further, if granted, the Petition would unfairly impact previously-designated competitive ETCs while providing no benefit to consumers. As such, the Petition should be

¹ T-Mobile USA, Inc. Petition for Reconsideration or Clarification, *Connect America Fund*, WC Docket No. 10-90 (filed Dec. 29, 2011).

rejected and the funding levels established for the transitional competitive ETC mechanism left intact.

I. Providing Support to Newly-Designated ETCs Would Be Fundamentally Inconsistent With the Purpose of the Phase-Down of High-Cost Support.

The FCC adopted a five-year transition period during which time existing competitive ETCs will have their USF support phased down by 20% a year “in order to avoid shocks to service providers that may result in service disruptions for customers.” *Connect America Fund*, WC Docket No. 10-90, Report & Order & FNPRM, FCC 11-161, ¶ 513 (rel. Nov. 18, 2011) (the “*Order*”). As Mobi correctly explained in its opposition, “the transition period was not intended to provide a means by which newly-designated ETCs could begin participating in the high-cost program, but rather to permit both existing ETCs and their customers a smooth transition into the new regime.” Mobi Comments at 2. For this reason, “the only phase-down that makes sense is to phase-down the actual support that T-Mobile [and other similarly-situated carriers] received in 2011.” Comments of C Spire, US Cellular, and Smith Bagley at 7 (hereinafter “Joint Opposition”). Providing more support in 2012 and beyond that which the carriers actually received in 2011 based on the amount they would have been entitled to receive had they been designated as an ETC before January 1, 2011 makes absolutely no sense in light of the principles upon which the Commission based the *Order*.

Further, ETCs that received USF support for the first time in 2011 -- or that have yet to receive any USF support -- have not become reliant upon universal service support and thus cannot claim that transitional support is necessary for any reason, particularly at the expense of existing CETCs who have constructed their networks in reliance upon universal service support. In the *Order*, the Commission concluded that “a five-year transition will be sufficient for competitive ETCs that are *currently receiving* high-cost support to adjust and make necessary

operational changes to ensure that service is maintained during the transition.” *Order* ¶ 513

(emphasis added). As FTC Communications explains,

[t]he concerns articulated by the Commission – and which led the Commission to establish a transition path for legacy funding – apply only to carriers that are currently receiving high-cost support for their networks. Unlike carriers that were previously designated as CETCs, carriers that are not currently receiving federal high-cost universal service funding have not relied on such funding to improve their networks in high-cost areas.

FTC Comments at 3. SouthernLINC Wireless agrees with FTC that newly-designated ETCs “do not have the same concern with the impact of lost funding on their operations and service to consumers” as existing ETCs, and should not be entitled to the transitional support established in the *Order*. *Id.* at 3.

II. Providing Transitional Support to Newly-Designated ETCs Will Not Improve Consumers’ Access to Mobile Services

The record contradicts T-Mobile’s claim that a refusal by the FCC to provide the requested support would degrade T-Mobile’s ability to meet its service commitments. T-Mobile Petition at 10. In fact, the Commission made *exactly the opposite* determination in the Order, stating that:

...there is nothing ... in the record that suggests AT&T or T-Mobile would reduce coverage or shut down towers in the absence of ETC support. We therefore find that it is reasonable to assume that the four national carriers will maintain at least their existing coverage footprints even if the support they receive today is phased out.

Order ¶ 495. T-Mobile has not cited any evidence to suggest that the Commission’s finding is incorrect with respect to T-Mobile or any other carrier.

In addition, there are already more than enough competitive ETCs providing mobile services in many of the states where T-Mobile seeks additional support. For example, as Mobi points out, in Mississippi, there are already thirteen existing ETCs designated in 2010 to service

the majority of the state. Mobi Comments at 6 (citing *FCC Response to U.S. House of Representatives Committee on Energy and Commerce USF Data Request of June 22, 2011 Request 7 -- Study Areas with the Most Eligible Telecommunications Carriers*²). Similarly, in Georgia, one of the states in which SouthernLINC Wireless serves as an ETC, eight separate competitive ETCs already offer service throughout nearly all of the state. *See* USAC 2Q2012 High Cost Appendices – HC01 - High Cost Support Projected by State by Study Area - 2Q2012.³ Nonetheless, in a transparent attempt to bolster its argument that it should receive transitional support in Georgia, T-Mobile is now lobbying for the Georgia PSC to make its ETC designation retroactive to November 17, 2011 – the day before the FCC released the *Order* – stating that the requested retroactivity is essential so that T-Mobile “can bring vital mobile services to Georgia’s consumers through ... the expanded rural network that it will build through the receipt of federal universal service high cost support.” *T-Mobile South, LLC Post Hearing Brief*, Docket No. 32967, Document No. 139257, at 8-9 (filed Dec. 2, 2011). However, neither the Petition nor T-Mobile’s Georgia filing provides any reason to believe that providing support to T-Mobile or other newly-designated ETCs will result in better or more-affordable service for consumers in rural areas. To the contrary, as Mobi notes, T-Mobile and other newly-designated ETCs will have an incentive to serve low-cost areas first – particularly if such carriers will not receive USF support in the future. Mobi Comments at 6 (noting that newly-certified carriers are likely to focus on building their customer base in those portions of the study area that are the most profitable (*i.e.*, the least costly to serve and most densely populated portions of the service territory)).

² Available at http://democrats.energycommerce.house.gov/sites/default/files/documents/Request7_CT_07.27.11.pdf.

³ Available at <http://www.usac.org/about/governance/fcc-filings/2012/quarter-2.aspx>.

III. Support for Newly-Designated Competitive ETCs Should Not Come At The Expense Of Previously-Designated Competitive ETCs

T-Mobile's Petition should be denied because the relief it seeks would either unfairly reduce support to previously-designated ETCs in the affected states or unnecessarily increase the overall size of the high-cost program. In its Petition, T-Mobile requests that the Commission provide newly-designated competitive ETCs transitional support based on the amount of support the newly-designated ETC would have received on a monthly basis in 2011 if the ETC had been eligible for support at that time. T-Mobile Petition at 7. T-Mobile asserts that "the requested relief would not increase the total amount of high-cost CETC support to be disbursed during the transition." *Id.* However, as the Joint Opposition explains, "[t]his can only be correct if the FCC were to reduce the 2011 baseline support level for all other CETCs in capped states." Joint Opposition at 9. SouthernLINC Wireless agrees with the Joint Opposition that "[s]uch a result would be grossly unfair, would disrupt the orderly phase-down among all other CETCs, and would make support for other CETCs anything but 'predictable.'" *Id.* at 9. As Mobi explains:

[A]ny modification to the Order in response to T-Mobile's petition should not further reduce the amount of support available to other competitive ETCs in the study area. Instead, competitive ETCs should be provided the certainty of set amounts of support during the transition period, regardless of whether T-Mobile or other carriers receive ETC designations.

Mobi Comments at 10.

Further, while the Commission could increase the total size of the high cost program to offset the effect that the provision of high cost support to T-Mobile would have on other carriers' universal service support levels, this result would still be inconsistent with the rationale upon which the Commission based the *Order*. In the *Order*, the Commission sought to "rationaliz[e] how universal service funding is provided [to mobile carriers] to ensure that it is cost-effective and targeted to areas that require public funding to receive the benefits of mobility." *Order* ¶

298. However, in its Petition, T-Mobile fails to explain how the grant of its petition is consistent with these goals. To the contrary, as Mobi explained, “providing high-cost support to newly-designated ETCs that have not previously received such support under the legacy support mechanism will result in those carriers taking advantage of the same perceived inefficiencies that led to the recent reform of that system.” Mobi Opposition at 5. For this reason, the Commission should deny T-Mobile’s Petition in its entirety.

CONCLUSION

For the foregoing reasons, SouthernLINC Wireless respectfully requests that the Commission deny T-Mobile’s Petition for Reconsideration or Clarification in its entirety.

Respectfully submitted,

/s

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