

**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 Line-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**To: The Commission**

**REPLY TO COMMENTS ON PETITION FOR CLARIFICATION OR  
PARTIAL RECONSIDERATION OF  
TOWNES TELECOMMUNICATIONS, INC.**

Townes Telecommunications, Inc. (“Townes”), pursuant to Section 1.429 of the  
Commissions Rules, hereby responds to comments on its Petition for Clarification or Partial  
Reconsideration<sup>1</sup> of the portion of the Commission’s *Report and Order and Further Notice of*

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<sup>1</sup> Petition for Clarification or Partial Reconsideration of Townes Telecommunications, Inc., WC Docket No. 10-90,  
et al., filed December 29, 2011 (“Petition”).

*Proposed Rulemaking*, FCC 11-161, released November 18, 2011 (“*Order and FNPRM*”)<sup>2</sup> in the above-captioned proceeding, that adopts the “access to spectrum” requirement for Phase I Mobility.

In its Petition, Townes demonstrated that the Commission should clarify the “spectrum availability” requirement associated with the mobility fund to ensure that rural carriers are able to take advantage of technologies that employ unlicensed spectrum to provide 3G or better wireless services. Specifically, carriers must be able to take advantage technologies such as the xMax™ cognitive radio technology developed by xG Technology, which offer a lower cost alternative for rural carriers.<sup>3</sup>

In the *Order and FNPRM*, the Commission indicates that in order to participate in the Mobility Fund auction and receive support, entities must hold, or otherwise have access to, a Commission authorization to provide service in a frequency band that can support 3G or better services.<sup>4</sup> The Commission should, on reconsideration, clarify that where an entity plans to provide service using unlicensed spectrum, no such Commission authorization is necessary.

In Comments, the National Association of State Utility Consumer Advocates and the New Jersey Division of Rate Counsel (collectively, “Consumer Advocates”) suggest that the Petition should be denied because “Townes concerns can be addressed in the FNPRM.”<sup>5</sup> This position is flatly incorrect. Townes’ concerns, as enumerated in the Petition, deal squarely with a

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<sup>2</sup> *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 a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund*; Report and Order and Further Notice of Proposed Rulemaking, WC Dockets No. 10-90, 07-135, 05-337, 03-109; CC Dockets No. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-208, released November 18, 2011, (*Order and FNPRM*).

<sup>3</sup> Petition at p. 3.

<sup>4</sup> *Order and FNPRM* at ¶399.

<sup>5</sup> Comments of the National Association of State Utility Consumer Advocates and the New Jersey Division of Rate Counsel, WC Docket No. 10-90, filed February 9, 2012, at p. 18.

final action of the Commission and are therefore properly the subject of a petition under the Commission's rules.<sup>6</sup> While the FNPRM deals with Mobility Fund Phase II issues, the Phase I rules are final. The Consumer Advocates provide no legal support whatsoever for their argument to the contrary. Furthermore, the Commission has already scheduled the Mobility Fund Phase I reverse-auction for September 27, 2012.<sup>7</sup> Any opportunity for the Commission to meaningfully address Townes' concerns in the *FNPRM* proceeding would likely not occur until it is already too late.

Therefore, Townes respectfully requests that the Commission clarify its *Order and FNPRM* in accordance with the above.

Respectfully submitted,

**Townes Telecommunications, Inc.**

By           s/ Benjamin H. Dickens, Jr.            
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<sup>6</sup> See 47 CFR 1.429.

<sup>7</sup> *Mobility Fund Phase I Auction Scheduled for September 27, 2012*, AU Docket No. 12-25, DA 12-121, released February 2, 2012.

**Certificate of Service**

I hereby certify that on February 21, 2012, a copy of the forgoing **Reply to Comments on Petition for Clarification or Partial Reconsideration of Townes Telecommunications, Inc.** was served on each of the following via US Mail, postage prepaid:

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