

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Mobility Fund Phase I Auction) AU Docket No. 12-25

COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.

Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”),¹ hereby responds to the Commission’s Public Notice in the above-captioned docket seeking comment on competitive bidding procedures and program requirements for Phase I Mobility Fund support.²

I. Introduction

In response to the Commission’s Further Notice of Proposed Rulemaking (“*FNPRM*”) in the Connect America Fund (“CAF”) docket,³ ACS and other Alaska parties have urged the Commission to tailor the Mobility Fund program and procedures for the Mobility Fund Phase I auction so that rural Alaska is not excluded from the benefits of

¹ In this proceeding Alaska Communications Systems Group, Inc. represents four local exchange carriers, ACS of Alaska, Inc., ACS of Anchorage, Inc., ACS of Fairbanks, Inc., and ACS of the Northland, Inc., as well as ACS Long Distance, Inc., ACS Cable, Inc., ACS Internet, Inc., and ACS Wireless, Inc. Together, these companies provide wireline and wireless telecommunications, information, broadband, and other network services to residential, small business and enterprise customers in the State of Alaska and beyond, on a retail and wholesale basis, using ACS’s intrastate and interstate facilities.

² *Mobility Fund Phase I Auction Scheduled For September 27, 2012; Comment Sought On Competitive Bidding Procedures For Auction 901 and Certain Program Requirements*, FCC Public Notice in AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012) (the “*Mobility Fund Phase I PN*”).

³ *Connect America Fund et al.*, Report and Order (“*CAF/ICC Order*”) and Further Notice of Proposed Rulemaking (“*FNPRM*”) in WC Docket Nos. 10-90 *et al.*, FCC 11-161 (rel. Nov. 18, 2011).

that program. For example, the Alaska Rural Coalition, General Communication, Inc. (“GCI”) and ACS have advocated setting aside support for a dedicated Alaska Mobility Fund and allocating it using an Alaska-specific predictive cost model, in lieu of pitting Alaska against other states in a competitive bid that will be won by the bidder with the lowest costs per location, as the Phase I Mobility Fund auction was envisioned in the *CAF/ICC Order*.⁴ Similarly, ACS and GCI pointed out that identifying “unserved” census blocks by American Roamer data and the Census Bureau’s TIGER data (based on road miles) would fail to capture the hundreds of Bush communities in Alaska that lack access to 3G or better mobile communications technology.⁵

The Commission nonetheless is proceeding to award support by using American Roamer data to develop a list of potentially eligible census blocks, and for each census block, comparing bid amounts and the number of road miles the bidder proposes to serve.⁶ Support will not be awarded in any census blocks with no road miles.⁷ Thus, the Phase I Mobility Fund auction will fail to deliver urgently needed support to hundreds of communities where the benefits of new advanced services otherwise would be “most widely enjoyed.”⁸

⁴ Reply Comments of Alaska Communications Systems Group, Inc. in WC Docket Nos. 10-90 *et al.*, filed Feb. 17, 2012 (“ACS FNPRM Reply”) at 14; Comments of General Communication, Inc. in WC Docket Nos. 10-90 *et al.*, filed Jan. 18, 2012 (“GCI FNPRM Comments”), at 14-16; Comments of the Alaska Rural Coalition in WC Docket Nos. 10-90 *et al.*, filed Jan. 18, 2012, at 27-28.

⁵ Comments of Alaska Communications Systems Group, Inc. in WC Docket Nos. 10-90 *et al.*, filed Jan. 18, 2012 (“ACS FNPRM Comments”) at 16; GCI FNPRM Comments at 14.

⁶ *CAF/ICC Order* ¶ 350; *Mobility Fund Phase I PN* ¶16.

⁷ *Mobility Fund Phase I PN* ¶23.

⁸ *Mobility Fund Phase I PN* ¶22.

In keeping with the framework established in the *CAF/ICC Order*, these comments address the impact of the proposed rules and auction procedures for Alaska census blocks that are on the road system and thus potentially eligible for Phase I Mobility Fund support. Mobile broadband services are not yet available in many such areas, and access to broadband services would be a significant benefit to mobile customers. ACS again urges the Commission not to structure this auction so as to predetermine the outcome, nor to exclude the state of Alaska from the benefits of this program.

II. Establishing Eligible Census Blocks and Unserved Road Mile Units

ACS remains unconvinced that American Roamer data accurately depicts where particular mobile technologies are available in Alaska.⁹ Like other parties, ACS has discovered numerous inaccuracies in that data in the past.¹⁰ ACS plans to review the American Roamer data recently published by the Commission to establish potentially eligible census blocks for the Phase I Mobility Fund auction, but notes that this data is voluminous.¹¹ Moreover, census blocks in Alaska vary greatly in size and configuration. Unfortunately, the mapping interface offered by the Commission has not proven to be of any value to ACS whatsoever. Accordingly, ACS is engaged in a painstaking effort to identify “by hand” the census blocks where ACS may want to bid, and to evaluate the road miles and potential mobile usage associated with them. While ACS does not believe that

⁹ See ACS FNPRM Comments at 16.

¹⁰ See Blooston Rural Carriers Motion for Extension of Time and Separate Comment Cycle in AU Docket No. 12-25, filed Feb. 13, 2012

¹¹ The Commission recently extended the deadline for such comments in light of the massive volume of data to be evaluated. *Mobility Fund Phase I Auction Limited Extension of Deadlines For Comments and Reply Comments On Census Block Eligibility Challenges*, FCC Public Notice, AU Docket No. 12-25, DA 12-236 (rel. Feb. 16, 2012).

this is by any definition the most effective way to target support to unserved communities, ACS does believe that it will conclude that there are census blocks on the road system in Alaska for which support should be available to fill in coverage gaps in mobile broadband service.

III. Establishing Auction Procedures and Build-Out Requirements

A single-round reverse auction is proposed for the award of all Mobility Fund support in Phase I, based on the view that bidders need no information about other bids in order to evaluate the cost of extending advanced wireless coverage to as many road miles as possible within unserved census blocks.¹² The Bureaus seek comment on different bidding options and propose alternative build-out requirements – as much as 100 percent of the road miles in the census blocks for which support is awarded – depending on whether flexibility is afforded the bidders to aggregate census blocks in their bids.¹³ ACS believes that such a rule favors certain regions of the country – specifically, those with flat terrain where more road miles can be covered with fewer cell sites – and disfavors the mountainous regions such as the Appalachians, the Rockies, and Alaska.

An alternative approach is warranted. The auction should allow bidders as much flexibility as possible, but also create as much incentive as possible for further investment, not set up unrealistic expectations. Especially because Phase I Mobility Fund provides only one-time support, it can be expected to do the most good if it serves as “seed” money for additional private investment, and is widely distributed throughout all regions of the country. The auction should be designed in such a way that it does not allocate support

¹² *Mobility Fund Phase I PN* ¶¶25-27.

¹³ *Id.* ¶¶29, 36.

among a few large bids but distributes support among many bidders and many regions of the country.

Winning bidders also should be subject to reasonable expectations for build-out. The 75 percent coverage level discussed in the *CAF/ICC Order* is appropriate for a minimum requirement. Mobility Fund Phase I support is likely to be used for gap-filling deployment of facilities in areas adjacent to areas that already enjoy mobile broadband coverage. Moreover, as noted in the *Mobility Fund Phase I PN*, on roads that border two census blocks, each census block will be attributed with half of the road miles,¹⁴ making it likely that competing providers will deploy facilities along the same road. Thus, a coverage requirement of 100 percent likely would result in the duplication of facilities. This would disserve the Commission's goal of maximizing the effective use of the limited \$300 million budget for Mobility Fund Phase I support.

IV. Performance Security and Default Payments

In the *CAF/ICC Order* the Commission adopted a requirement that winning bidders furnish an irrevocable letter of credit ("LOC") as security for their performance obligations.¹⁵ ACS has asked that the Commission modify this requirement, because it is both burdensome and unnecessary for publicly traded companies and service providers that are known to the Commission, such as wireless service providers that are already known to the Commission from the review process when they purchased their licenses, as well as through their history of providing universal service.¹⁶ In the *Mobility Fund Phase*

¹⁴ *Mobility Fund Phase I PN* ¶22.

¹⁵ *CAF/ICC Order* ¶444.

¹⁶ ACS FNPRM Comments at 14; ACS FNPRM Reply at 13.

IPN, the Bureaus propose further performance assurances in the forms of a five percent default payment for bidder defaults and a ten percent default payment for performance defaults.¹⁷ ACS understands the need for assurances that bidders will fully inform themselves of the obligations associated with bidding in the auction, comply with the FCC's auction procedures, and fulfill build-out obligations upon winning support. ACS therefore has no objection to the default payments proposed in the *Mobility Fund Phase I PN*, but ACS believes the imposition of these mechanisms supports ACS's request that the Commission exempt from the LOC requirement all publicly-traded companies and carriers with a history of providing universal service.

V. Establishing Reasonable Comparability of Prices

The Commission is considering appropriate rules to ensure "reasonable comparability" in prices for supported voice and broadband services,¹⁸ and has delegated to the Bureaus the task of surveying current prices, but that survey is not complete.¹⁹ The Bureaus therefore propose that a Mobility Fund Phase I support recipient may demonstrate compliance with the rate comparability requirement by demonstrating that "each of its service plans in supported areas is substantially similar to a service plan offered by at least one mobile wireless service provider in an urban area and is offered for the same or a lower rate than the matching urban service plan."²⁰ ACS supports this proposal, provided that the urban mobile service provider to whom the supported carrier compares its rates may be the supported carrier itself or its own affiliate. ACS believes this is the Bureaus'

¹⁷ *Mobility Fund Phase I PN* ¶¶62, 64.

¹⁸ *FNPRM* ¶¶1018-1027.

¹⁹ *CAF/ICC Order* ¶385; *Mobility Fund Phase I PN* ¶65.

²⁰ *Mobility Fund Phase I PN* ¶67.

intent, based on the plain language of the Public Notice, which does not specify that the urban provider need be “unaffiliated” or “another” provider, as well as footnote 79 of the Public Notice, which notes that a supported provider may use “its own urban rates.”²¹

ACS opposes the Bureaus’ proposal to define “urban area” as one of the 100 most populated Cellular Market Areas in the United States.²² Such a result would force Alaska funding recipients to compare their rates and rate plans to those of service providers in other states. ACS proposes instead a local approach under which Mobility Fund recipients would compare their rates to urban service rates *in the same state*. The Commission has found that voice service rates vary considerably from state to state.²³ Even for a state as rural as Alaska, the Commission also has distinguished between areas it considers “remote” for universal service purposes, and other, larger communities.²⁴ The same distinction would be useful in the Mobility Fund Phase I context, allowing Alaska funding recipients to compare their rates to the rates of service providers (including themselves or their affiliates) in non-remote areas of Alaska. ACS believes that such a rule complies with the mandate of the Communications Act that rural customers have access to services reasonably comparable to those available to urban customers, at reasonably comparable rates.²⁵ It also is consistent with the overall approach of the *CAF/ICC Order* to rely

²¹ *Mobility Fund Phase I PN* ¶¶68 & n.79.

²² *Mobility Fund Phase I PN* ¶70.

²³ *See CAF/ICC Order* ¶¶ 235-236.

²⁴ *See CAF/ICC Order* ¶529 & n.876.

²⁵ 47 U.S.C. § 254(b)(3).

increasingly on market forces and realign rates with local costs and local market conditions.²⁶

VI. Conclusion

For the foregoing reasons, ACS urges the Bureaus to structure the Mobility Fund Phase I auction so as not to exclude Alaska. There are many locations where an immediate infusion of support would provide valuable gap-filling mobile broadband coverage for the benefit of many consumers, and where carriers such as ACS Wireless would be ready, willing and able to deliver 3G or 4G performance obligations to at least 75 percent of the road miles. The Bureaus therefore should structure the auction so as not to pit Alaska against other states, nor unduly raise the cost of participating in the auction, so as to price Alaska carriers out of the market.

Respectfully submitted,

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²⁶ See *CAF/ICC Order* ¶¶9, 16.