

**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
)	
Mobility Fund Phase I Auction)	AU Docket No. 12-25

To: Wireless Telecommunications and Wireline Competition Bureaus

REPLY COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.

The Rural Telecommunications Group, Inc. (“RTG”)¹ submits these reply comments in response to comments filed in response to the Federal Communications Commission’s (“FCC” or “Commission”) *Public Notice*² announcing the reverse auction to award \$300 million in one-

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.

² Mobility Fund Phase I Auction Scheduled for September 27, 2012; Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements, AU

time Mobility Fund Phase I support and requesting comment on auction procedures and related programmatic issues.

I. THE PROPOSED AMERICAN ROAMER DATA AND ROAD CATEGORIES ARE INSUFFICIENT TO DETERMINE AND MEASURE ELIGIBLE AREAS.

A. Commenters Are Already Identifying American Roamer Inaccuracies And Specific Challenges Will Soon Follow.

The record before the Commission demonstrates that the American Roamer³ data as of January 2012 released by Wireless Telecommunications and Wireline Competition Bureaus (“Bureaus”) on February 10, 2012⁴ is not sufficiently accurate to be relied upon for determining areas eligible for Mobility Fund Phase I support in Auction 901. Indeed, the Office of Broadband Outreach and Development for the Commonwealth of Kentucky (“Kentucky”) has identified differences in the FCC’s map of potentially eligible areas and its own broadband coverage map,⁵ and the Alaska Communications Systems Group, Inc. (“ACS”) indicates that it is “unconvinced that American Roamer data accurately depicts where particular mobile technologies are available in Alaska” and that it “has discovered numerous inaccuracies in the past,” but also notes that it has voluminous amounts of data to review.⁶ Furthermore, Clearwire Corporation (“Clearwire”) has already identified and supplied information regarding Census Blocks included in the FCC’s list of eligible areas but that Clearwire claims are actually covered

Docket No. 12-25, *Public Notice*, DA 12-121 (rel. February 2, 2012) (“*Auction 901 Procedures Public Notice*”).

³ On February 27, 2012 American Roamer changed its name to Mosaik Solutions. However, to keep the comment record consistent in the above-referenced proceedings, RTG continues to use the name American Roamer.

⁴ Mobility Fund Phase I Auction; Updated List of Potentially Eligible Census Blocks, AU Docket No. 12-25, *Public Notice*, DA 12-187 (rel. February 10, 2012).

⁵ Mobility Fund Phase I Auction, AU Docket No. 12-25, *Comments of the Office of Broadband Outreach and Development for the Commonwealth of Kentucky*, 2 (February 24, 2012).

⁶ Mobility Fund Phase I Auction, AU Docket No. 12-25, *Comments of Alaska Communications Systems Group, Inc.*, 3 (February 24, 2012) (“*Comments of ACS*”).

by its 4G wireless broadband Internet service.⁷ Because the FCC extended the deadline to file comments challenging the eligible geographic areas set out in the *Auction 901 Procedures Public Notice*, RTG anticipates that the record will eventually include even more detailed evidence that the January 2012 American Roamer coverage data is significantly inaccurate and unreliable.⁸

Following the extended comment period for challenging eligible areas, RTG urges the FCC to (1) permit rural carriers to work with American Roamer to update their coverage data and (2) release this revised updated data to determine eligible areas. RTG supports Kentucky's comment that a separate and further extended comment cycle should be established for challenging the use of American Roamer data as the exclusive basis for determining eligible areas. RTG also supports the Blooston Rural Carriers in their comment that the Bureaus should make available the maps needed for challenging eligible areas in a format that would permit operators to overlay their current network layouts (and Census Block and TIGER road mile data) in a GIS or CAD program, which would further facilitate this process for rural carriers and stakeholders.⁹

B. There is Broad Support for Expanding the List of Eligible Road Mile Categories And Considering Other Factors.

RTG supports the comments of the Blooston Rural Carriers urging the inclusion of section roads, vehicular trails and private roads for service vehicles in addition to the first three categories of TIGER designated roads of Primary Roads (S1100), Secondary Roads (S1200) and

⁷ See Comments Sought on Competitive Bidding Procedures for Auction 901, AU Docket No. 12-25, *Comments of Clearwire Corporation*, 1 (February 24, 2012).

⁸ Mobility Fund Phase I Auction, Limited Extension Of Deadlines for Comments and Reply Comments on Census Block Eligibility Challenges, AU Docket No. 12-25, *Public Notice*, DA 12-236 (rel. February 16, 2012).

⁹ Mobility Fund Phase I Auction Scheduled for September 27, 2012, AU Docket No. 12-25, *Comments of the Blooston Rural Carriers*, 4 (February 24, 2012).

Local Neighborhood Roads, Rural Roads, and City Streets (S1400).¹⁰ RTG agrees that there is a public safety interest in bringing robust coverage to these rural roads because first responders and other public safety entities often rely on public communications networks in rural areas where public safety system coverage may be lacking. RTG also supports comments of General Communications, Inc. (“GCI”) recommending the inclusion of unpaved dirt roads and private logging roads to benefit much of rural Alaska, which uses such roads but lacks an interconnected highway system.¹¹

II. THE FLEXIBILITY AFFORDED BY BIDDER-DEFINED AGGREGATION WITH AN 80 PERCENT COVERAGE REQUIREMENT WILL MAXIMIZE PARTICIPATION AND COST EFFECTIVE BUILDOUTS.

Auction 901 is intended to provide one-time support to eligible telecommunications carriers (“ETCs”) committed to bring 3G or better mobile voice and broadband services to areas where these services are unavailable and where it is cost effective to do so with one-time support.¹² RTG agrees with the comments of GCI,¹³ United States Cellular Corporation (“U.S. Cellular”),¹⁴ and Verizon¹⁵ supporting bidder-defined aggregations of Census Blocks to

¹⁰ *See Id.* at 5.

¹¹ Competitive Bidding Procedures for Auction 901 and Certain Program Requirements, AU Docket No. 12-25, Comments of General Communications, Inc., 2 (February 24, 2012) (“*Comments of GCI*”)

¹² *See Auction 901 Public Notice* at ¶ 2. *See also* 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*, ¶ 322, FCC 11-161, rel. Nov. 18, 2011 (“*USF/ICC Transformation Order*”).

¹³ *See Comments of GCI* at 2-3.

¹⁴ *See* Mobility Fund Phase I Auction, AU Docket No. 12-25, *Comments of United States Cellular Corporation*, 8-9 (February 24, 2012) (“*Comments of U.S. Cellular*”).

¹⁵ Mobility Fund Phase I Auction Scheduled for September 27, 2012; Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements, AU Docket 12-25, Comments of Verizon, 2-3 (February 24, 2012) (“*Comments of Verizon*”).

maximize participation and allow carriers with knowledge of localized challenges to tailor support to their service areas with greater cost efficiency. Bidder-defined aggregations would ensure that bidders have the required ETC qualifications and hold the necessary spectrum to serve the Census Blocks included in their package bids. In its comments that pertain largely to rural Alaska, GCI argues that bidder-defined aggregation should be adopted so that bidders could harness geographic economies of scale.¹⁶

RTG disagrees with comments supporting aggregations of predefined Census Tracts. Supporters of this approach, including the Blooston Rural Carriers,¹⁷ AT&T¹⁸ and NTCH, Inc.,¹⁹ suggest that bidder-defined aggregation essentially would be too complicated. AT&T raises concerns that bidder-defined aggregation would lead to partially overlapping bids, which in turn would result in unfunded Census Blocks and/or strategic behavior and gaming whereby bidders would bid only on the smallest, least costly areas.²⁰ However, AT&T gives short shrift to the proposed checks and limitations proposed by the Bureaus to address these concerns, and it ignores the fact that predefined aggregation would not target uncovered areas as efficiently as bidder-defined aggregation. Predefined aggregation also would give rise to more preliminary problems, such as ETCs left unable to participate if their ETC status does not match the entire Census Tract or because they do not hold spectrum throughout an entire eligible Census Tract. Forcing carriers to conform to arbitrary Census Tract boundaries in order to participate would be putting the cart before the horse and would prompt many rural carriers to sit out the auction.

¹⁶ See *Comments of GCI* at 2.

¹⁷ See *Comments of the Blooston Rural Carriers* at 7-8.

¹⁸ See Mobility Fund Phase I Auction Scheduled for September 27, 2012, AU Docket No. 12-25, *Comments of AT&T* (February 24, 2012) (“*Comments of AT&T*”).

¹⁹ Mobility Fund Phase I Auction, AU Docket No. 12-25, *Comments of NTCH, Inc.* (February 24, 2012) (“*Comments of NTCH*”).

²⁰ See *Comments of AT&T* at 5-17.

RTG agrees with U.S. Cellular in that “[a]ny pre-defined area that disqualifies an otherwise eligible carrier is counterproductive to the goal of increasing participation in the auction process.”²¹ Additionally, NTCH is concerned that bidder-defined aggregation would benefit national carriers with large tracts of spectrum containing large underserved areas.²² Yet, this concern would not be eliminated with the adoption of predefined bidding. However, as further discussed below, it could be resolved by disallowing Tier I carrier participation in Auction 901.

RTG favors a straightforward and transparent process for awarding Mobility Fund support throughout Phases I and II. RTG also believes that bidder-defined aggregation can be applied to Auction 901 in a straightforward and transparent manner that incentivizes participation while overcoming the concerns raised by proponents of predefined aggregation. First, RTG supports a single round lasting one week, or at least five business days, in order to afford bidders an opportunity to assess different combinations of Census Blocks in formulating their bids and determine how the different combinations impact the amount per road mile bid. This would allow bidders to strategically (and permissibly) determine how to best formulate a successful bid. RTG also urges the FCC to provide an online tool that will allow bidders to work on bid combinations offline before placing their bids. Though this approach is not as simple as adopting predefined aggregation, it would nevertheless provide the most carriers with the most opportunities to participate and guarantee that the winning bids meet the stated public interest goal of serving the most road miles with the limited \$300 million Mobility Fund.²³

Second, RTG supports the Bureau’s proposed limitation of any Census Blocks aggregations to a single cellular market area (“CMA”) as well as limiting numbers of different,

²¹ *Comments of U.S. Cellular* at 9.

²² *See Comments of NTCH* at 2-3.

²³ *See Auction 901 Procedures Public Notice* at ¶ 6. *See also USF/ICC Transformation Order* at ¶ 319.

contingent bids per CMA, as discussed in the *Auction 901 Procedures Public Notice*. However, RTG supports a limit of six bids per CMA instead of three, which would still limit the number of partially overlapping package bids, but would allow groupings that are more targeted within each CMA. A week-long bidding round would help accommodate bidders in managing these multiple bids.

Lastly, to ensure a true level playing field for the distribution of Mobility Fund support, the FCC supports the *Comments of the Blooston Rural Carriers* urging a prohibition on Tier I carrier participation in Auction 901. If the FCC is unwilling to adopt a Tier I prohibition, it should consider a prohibition of the “Big Two” carriers -- Verizon Wireless and AT&T Mobility. Given their numbers of subscribers, tremendous earnings, and strongholds in the mobile wireless business, it is clear that the Big Two carriers have no need for a handout to serve rural markets and can afford to provide service in rural areas without federal support through internal subsidization through their urban areas offsetting their rural areas should they so desire.²⁴ Instead, it has fallen on the rural carriers who live and work in these rural areas to provide service. With the inability to compete for the latest, most-desired handsets or spread costs over a large customer base, and because of reduced roaming revenue from large carriers blocking their customers’ access to rural networks (even where the larger carriers have no competing network), rural carriers have become more reliant on federal support to provide competitive priced services

²⁴ See 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, *Reply Comments of the Rural Telecommunications Group, Inc.*, 7-8 (February 21, 2012).

in rural areas.²⁵ If the FCC allows Tier I carriers to participate in Auction 901, then RTG supports the suggestion of the Blooston Rural Carriers of holding Tier I and Tier II carriers to higher coverage thresholds, such as 95 or 100 percent. For Tier III carriers, RTG also supports a lower and more realistic performance requirement of 80 percent, instead of the more strict 95 or 100 percent thresholds suggested in the *Auction 901 Procedures Public Notice*.

III. THE FCC SHOULD NOT ADOPT OVERBURDENSOME AUCTION PROCEDURES THAT WOULD SERVE AS AN IMPEDIMENT TO AUCTION PARTICIPATION.

A. The Letter of Credit Requirement Is Unduly Burdensome.

RTG agrees with comments of U.S. Cellular and others emphasizing that the requirement for awardees to provide an irrevocable standby letter of credit (“LOC”) is burdensome, unnecessary, and would be a constraint on capital investments.²⁶ This requirement would weigh most heavily on smaller carriers. Most rural carriers are small businesses that may find it difficult to obtain an LOC, and even when one can be had they are subject to carrying fees imposed by banks.²⁷ As proposed, the LOC requirement may effectively exclude small and rural wireless carriers from participating in Auction 901 by tying up capital needed for operation expenses and other projects.²⁸ Many of these commenters continue to urge the FCC to grant exemptions to the LOC requirement (e.g., for established rural carriers that have already borrowed and timely repaid funds from RUS, CoBank, or the Rural Telecommunications Finance Cooperative;²⁹ or for ETCs that have received high-cost support for three or more years).³⁰

²⁵ *See Id.*

²⁶ *See Comments of U.S. Cellular at 3.*

²⁷ *See Id.*

²⁸ *See Comments of Blooston Rural Carriers at 11.*

²⁹ *See Id.*

³⁰ *See Comments of U.S. Cellular at 4.*

B. Performance Default Payments Should Either Be Imposed Upon Final Coverage Thresholds Or Reduced.

RTG agrees with comments calling for a more nuanced performance default penalty.³¹

AT&T points to a number of reasons why awardees could fail to meet one or more performance benchmarks, such as unexpected zoning problems associated with new tower builds or constructing backhaul, or unexpected terrain problems.³² Rather than imposing a harsh performance default penalty requiring repayment of all support plus 10 percent, AT&T urges the FCC to assess a penalty equal to some percentage of the award associated with the portion of the total buildout and coverage obligation that the awardee failed to fulfill. RTG agrees with this added flexibility, and specifically supports a performance default penalty that is triggered only if an awardee fails to meet an 80 percent coverage requirement. Awardees that have built out 80 percent or more should not be subject to a performance default penalty, but should be required to pay back any overage it has been given for areas that have not been covered. If the Bureaus adopt an 80 percent coverage threshold with bidder-defined aggregation, then RTG would agree to the proposed performance default payment of 10 percent of the overall winning. RTG vigorously opposes comments by Verizon suggesting a performance default penalty of around 25 percent, which would effectively prompt all small and rural wireless carriers to refrain from participating in Auction 901 and leave room only for the carriers with the deepest coffers.

IV. CONCLUSION

The record thus far reveals a pressing need to ensure that eligible areas for Mobility Fund Phase I support are accurate, even if it means establishing a separate and dedicated comment cycle for this purpose. The Bureaus should also look beyond its list of the three TIGER road mile categories in measuring and determining bid coverage. Bidder-defined aggregation, along

³¹ See *Comments of AT&T* at 20-21.

³² See *Id.*

with an 80 percent coverage requirement, would most effectively impact the most number of eligible areas. The Bureaus should also add flexibility to some of its more stringent requirements related to buildout so as not to discourage participation in Auction 901.

Respectfully submitted,

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Date: March 9, 2012