

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

In the Matter of	
Mobility Fund Phase I Auction Scheduled for September 27, 2012	AU Docket No. 12-25
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

REPLY COMMENTS OF THE USA COALITION

The Universal Service for America Coalition (“USA Coalition” or “Coalition”), by its attorneys, respectfully submits these reply comments on the issues raised by the Federal Communications Commission (“FCC” or “Commission”) in the Public Notice issued by the Commission in the above-captioned proceeding.¹ The USA Coalition urges the Commission to adopt proposals to permit Mobility Fund Phase I auction participants to define their own bidding areas so as to ensure that as many carriers can participate in the auctions as possible. Similarly, to ensure as wide participation as possible, the Commission should reconsider proposed policies

¹ *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 No. 12-25, Public Notice, DA 12-121 (rel. Feb. 10, 2012).

(including letter of credit requirements) that would prevent smaller carriers from participating in the Mobility Fund Phase I process.

I. AUCTION PARTICIPANTS SHOULD BE PERMITTED TO DEFINE THEIR OWN BIDDING AREAS BY AGGREGATING CENSUS BLOCKS

The first step in developing an auction mechanism is for the FCC to take steps to provide carriers information necessary to participate meaningfully in the process. Therefore, the USA Coalition joins with the Blooston Rural Carriers in urging the FCC to “to make the maps necessary for determining the objections to the Phase I Auction Mobility Fund [and any subsequent maps for Phase II] readily available in a format that would permit operators to directly overlay their existing network layouts, as well as census block and TIGER data in a GIS or CAD program.”² Members of the USA Coalition have already spent numerous working hours attempting to collate the FCC-provided data with Census Bureau-provided census block maps in an attempt to reconcile the American Roamer data with actual field tests. The time and expense necessary for these efforts could be reduced if FCC mapping data were provided to the public in formats that the public can review and manipulate without bearing extraordinary costs.

Specifically, the USA Coalition urges the Commission to adopt the Blooston Carrier’s suggestion that the FCC provide the necessary data in .shp, .dwg, or .kml formats that can easily be used with reasonably priced mapping software such as Google Earth, or alternatively by enhancing the level of detail available in the Commission’s own mapping efforts such as those available on the Commission’s website.³

The USA Coalition also generally agrees with commenters in favor of permitting ETCs to define their own bidding areas using combinations of census blocks, rather than bidding on

² Blooston Rural Carriers at 4.

³ *Id.*

larger predefined areas established by the Commission.⁴ As US Cellular notes, “[b]y allowing carriers to define the areas they wish to bid for, the Commission will maximize the number of eligible carriers who will actually participate in the auction process.”⁵ Further, as RTG explains, using bidder-defined aggregation of census blocks will “allow bidders to adjust bids to areas that make the most sense to serve” and only to “bid on areas where bidders are qualified [ETCs] and hold spectrum necessary to participate in the auction.”⁶ Notwithstanding these issues, the USA Coalition supports the Bureau’s proposal to require that all census blocks covered by any given bid must be located within a single cellular market area.⁷ Such limitations are reasonable given the computational complexity inherent in an auction involving more than 490,000 census blocks, and will limit the number of different bids that a participant need submit to a reasonable number for most areas.⁸

The USA Coalition also joins with NTCH in urging the Commission to make any proposed “mathematical optimization procedure” for evaluating bids available for public inspection well before the beginning of the bidding process.⁹ As NTCH explains, “Unless the public is advised in advance of what the mathematical algorithm is and how it works, [the public] cannot reasonably evaluate or comment” on the procedure.¹⁰ Further, “[b]idders would have to know how the algorithm works in order to know how to place their bids and even to know whether they won, or should have won, the auction based on the bids they made.”¹¹

⁴ GCI Comments at 1; US Cellular Comments at 9; RTG Comments at 5

⁵ US Cellular at 9.

⁶ RTG Comments at 5.

⁷ Public Notice ¶ 32; *accord* US Cellular Comments at 9.

⁸ Comments of Alexandre Belloni et al. at 2.

⁹ NTCH Comments at 3-4.

¹⁰ *Id.* at 4.

¹¹ *Id.*

II. AUCTION POLICIES SHOULD NOT INHIBIT PARTICIPATION BY SMALLER CARRIERS IN THE MOBILITY FUND

A) Letters Of Credit Should Not Be Necessary For Established ETCs

The USA Coalition joins with commenters in urging the Commission to reconsider its proposed requirement that ETCs post a letter of credit in order to participate in Phase I of the Mobility Fund.¹² As the Blooston Rural Carriers explain, letters of credit “should ... not be necessary for established rural telephone carriers, which have made their living serving the exact type of areas to be reached with Mobility Fund support, and have done so by responsibly borrowing from institutions such as RUS, CoBank and RFTC and then timely repaying such loans.”¹³ Rather, carriers with an established history of deployment and significant assets within a state should be exempt from such requirements.

In particular, the proposed requirement that ETCs obtain a letter of credit unfairly burdens smaller carriers by requiring them to tie up significant amounts of capital in those letters, and may prevent such carriers from participating in Mobility Fund Phase I at all. As US Cellular explains:

The requirement is burdensome because as long as an LOC is outstanding, it takes up lending capacity and reduces the amount available for capital and operating expenses. For example, if a carrier wins an auction with a bid of \$1 million, and the LOC requirement is \$1.2 million, then the carrier must either deposit that amount with an institution, or it must treat that amount as borrowed under an existing credit facility. So, if a carrier has a \$10 million credit facility, it must tie up \$1.2 million, or 12%, of its commitment. This does not come without cost. Banks charge carrying fees for an LOC each year that the LOC is in place.¹⁴

Moreover, as US Cellular notes, “instead of imposing [letter of credit] requirements, the FCC [could] instead rely upon forfeiture penalties and revocation of ETC status as a means of

¹² Blooston Rural Carriers at 11; US Cellular Comments at 3; Alaska Rural Carriers at 4.

¹³ *Id.* at 11-12; see also US Cellular at 3-4.

¹⁴ US Cellular Comments at 3.

enforcing compliance with public interest obligations applicable to Mobility Fund and CAF support recipients.”¹⁵

The USA Coalition also agrees with the concerns expressed by the Rural Alaska Coalition that the proposed letter of credit requirement might preclude smaller carriers from participating at all.¹⁶ For example, the Alaska Rural Carriers notes that:

[T]he Irrevocable Line of Credit that a carrier must have in place represents a hurdle that only very large carriers are likely to meet. The ARC members have discussed this requirement with their lenders . . . and to date they have not found any lender willing to extend this type of arrangement.¹⁷

The FCC should reconsider any requirements that will leave a significant number of historically-successful ETCs unable to compete in the auction or unable to use those funds effectively.

B) Performance Requirements And Default Payments Must Not Be So Draconian As To Discourage Participation

The USA Coalition joins with commenters urging the Commission to avoid imposing harsh default penalties upon carriers that fail to meet build-out obligations. For instance, the USA Coalition agrees with RTG that “since Auction 901 will be the first-ever reverse auction, and there is room for subjectivity in determining whether . . . a long form application fully supports the bid amount, the Bureaus should refrain from enforcing default payments in the upcoming auction.”¹⁸ Further, as the Alaska Rural Coalition notes, the imposition of harsh auction default payments for failure to fulfill auction obligations will disproportionately harm small carries, who are least prepared to deal with such penalties.¹⁹ As such, while a default

¹⁵ *Id.* at 4.

¹⁶ Alaska Rural Carriers Comments at 4.

¹⁷ *Id.* at 4.

¹⁸ Blooston Rural Carriers at 10.

¹⁹ Alaska Rural Coalition at 4.

payment may be appropriate for certain egregious failures, it should not be imposed strictly on all carriers that fail to meet their obligations.²⁰

The Commission should also lower the proposed service coverage requirements an ETC must meet if the ETC receives support in an eligible area under the Mobility Fund Phase I program. The USA Coalition joins with AT&T in believing “that [the current proposed] requirement of 100 percent coverage is clearly unrealistic.”²¹ As AT&T notes:

Even in urban and suburban areas that already are fully built out, there are likely to be gaps in coverage on roads due to geological formations or other obstructions that limit coverage. Requiring wireless providers to fill in all gaps would raise the cost of deployment enormously and reduce significantly the amount of unserved areas that could be addressed with the \$300 million dollar fund.²²

Further, as US Cellular explains, “the last 25% of road miles between the 75% and 100% thresholds will be either (or perhaps all) (i) the hardest to cover . . . , (ii) located in the least densely populated areas, (iii) the highest-cost areas, (iv) uncovered due to unexpected real-world signal propagation . . . , or (v) uncovered due to irregular census block boundaries.”²³ For this reason, the USA Coalition joins with numerous other commenters in supporting a more reasonable minimum coverage threshold for Mobility Fund Phase I recipients, which the Coalition believes to be in the range of 75 or 80 percent.²⁴

²⁰ Blooston Rural Carriers at 10.

²¹ AT&T Comments at 12.

²² *Id.*

²³ US Cellular Comments at 7.

²⁴ *Id.* (proposing 75%); Blooston Rural Carriers Comments at iii (suggesting 75% coverage requirement for Tier III carriers); AT&T Comments at 13 (suggesting no higher than 90% coverage requirement); RTG Comments at 5 (suggesting 80% coverage requirement);

III. BIDDING CREDITS SHOULD BE AVAILABLE FOR SMALLER CARRIERS

The USA Coalition joins with the Blooston Rural Carriers in urging the FCC to implement bidding credits for the Phase I Auction. As the Blooston Rural Carriers note, such credits are essential to ensuring that smaller carriers can participate in these types of auctions:

Even with these measures, the Commission’s license records reflect that the larger carriers have dominated the auctions. Without such measures, small carriers would have had no realistic chance at the small measure of success they have been able to achieve.²⁵

For this reason, the USA Collation reiterates its own comments and those of RCA in response to the USF/ICC FNPRM and calls upon the Commission to provide rural and regional carriers with “bidding credits [for smaller companies] . . . and/or eligibility restrictions or negative bidding credits for large national carriers to ensure that competition can survive alongside universal service.”²⁶ For instance, the Commission could, “award bidding credits to carriers that are small businesses or meet certain public interest objectives associated with delivering mobile broadband to unserved markets,” as proposed by the RTG.²⁷ In implementing these credits, the Commission should adopt RTG’s proposal to redefine “small business” for USF purposes to reflect the fact that many “small” wireless carriers have average gross revenues in excess of that generally used to identify small businesses.²⁸

IV. RATE COMPARABILITY SHOULD BE BASED ON EASILY DEFINABLE METRICS

The USA Coalition agrees with commenters urging the Commission to adopt a simple and easy-to-demonstrate standard for compliance with the requirement that Mobility Fund Phase I recipients certify that “consumer rates . . . are within a reasonable range of rates for similar

²⁵ Blooston Rural Carriers at 12.

²⁶ RCA Comments, WC Docket No. 10-90, at 13-14 (filed Jan. 18, 2012).

²⁷ RTG Comments, , WC Docket No. 10-90, at 13 (filed Jan. 18, 2012).

²⁸ *Id.* at 15.

service plans offered . . . in urban areas.”²⁹ For instance, a recipient should be able to demonstrate compliance with this requirement:

- if it certifies that it offers nationwide or statewide rate plans and that the plans it offers in the supported area are the same as those it offers in urban areas; or
- by certifying that the rates it offers for plans in supported areas are no higher than, or fall within a certain range of, the rates offered by a Tier 1 or Tier 2 carrier that offers a nationwide or statewide plan to urban areas.

By providing carriers with an easy to determine and measurable standard to which it can compare its own services, the Commission can avoid requiring carriers to engage in complicated analysis of market conditions.

CONCLUSION

The USA Coalition urges the Commission to adopt Mobility Fund Phase I auction rules that promote competition and encourage as wide a range of bidders as possible, and that do not unfairly limit the ability of smaller carriers to participate in the proceedings.

Respectfully submitted,



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²⁹ Public Notice at 18; US Cellular Comments at 7; AT&T Comments at 21.