

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matters of)	
)	
Competitive Bidding Procedures for Mobility Fund Phase I Auction 901)	AU Docket No. 12-25
)	
Universal Service Reform Mobility Fund)	WT Docket No. 10-208

To: The Commission

Comments of Keystone Wireless, LLC d/b/a Immix Wireless

Keystone Wireless, LLC d/b/a Immix Wireless (“Keystone”), by its attorneys, hereby submits comments on the eligibility of certain census blocks for Mobility Fund Phase I support. Specifically, Keystone demonstrates that certain census blocks in CMA 251, CMA 259, CMA 614, and CMA 619 identified by the Federal Communications Commission (“FCC” or “Commission”) in its *Public Notice* released February 10, 2012¹ should be labeled as served by 3G or better mobile wireless service. As explained below, these census blocks will receive 3G wireless service from Keystone’s Broadband Initiatives Program (“BIP”) project which covers Berks, Centre, Clinton, Lycoming, Mountour, Northumberland, Schuylkill, Snyder, and Union Counties in central Pennsylvania, and should therefore be declared ineligible for the forthcoming Auction 901.

The Commission has proposed to exclude from eligibility “census blocks for which, notwithstanding the absence of 3G service, any provider has...received a funding commitment from a federal executive department or agency in response to the carrier’s commitment to

¹ “Mobility Fund Phase I Auction, Updated List of Potentially Eligible Census Blocks”, Public Notice, DA 12-187 (released February 10, 2012) (“*Public Notice*”).

provide 3G or better wireless service.”² Federal funding commitments include grants and loans for the provision of 3G wireless service made under BIP and the Broadband Technology Opportunities Program (BTOP), authorized by the American Recovery and Reinvestment Act of 2009. Keystone received a BIP award to construct a 3G wireless network in Centre, Lycoming, Union, Northumberland, Snyder, Clinton, Schuylkill, Berks, and Montour Counties, in central Pennsylvania.³ The project is under construction, and Keystone expects to initiate service by December 31, 2012.⁴ Numerous census blocks in CMA 251, CMA 259, CMA 614, and CMA 619, which will be served by Keystone’s BIP project, are incorrectly characterized as unserved by the Commission, and therefore eligible for Mobility Fund Phase I support. Pursuant to the *USF/ICC Transformation Order* and the *Auction 901 Public Notice*, the census blocks which will be served by Keystone’s BIP project should not be eligible for Mobility Fund Phase I support. The Commission should carefully review the information submitted herein by Keystone as well as all other wireless carriers to ensure that Mobility Fund Phase I support is not awarded to areas that were awarded BIP and BTOP support for 3G wireless projects. The restriction making areas

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 Docket No. 12-25, Public Notice, DA 12-121, ¶17 (Feb. 2, 2012) (*Auction 901 Public Notice*); see also *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, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, ¶341 (Nov. 18, 2011) (*USF/ICC Transformation Order*).

³ See U.S. Dept. of Agriculture, Broadband Initiatives Program, Awards Report, *Advancing Broadband, A Foundation for Strong Rural Communities*, p. 6 (Jan. 2011), available at <http://www.rurdev.usda.gov/Reports/RBBreportV5ForWeb.pdf> (last visited Mar. 13, 2012).

⁴ See Attached Declaration of Keystone’s President, Robert C. Martin. As established in Mr. Martin’s Declaration, Keystone’s BIP award consists of an \$11,096,780 loan and a \$25,286,105 grant.

that have received a funding commitment under BIP or BTOP ineligible for support will prevent multiple carriers from receiving federal funding to provide 3G or better services to the same area, which promotes the Commission’s goal of focusing Phase I Mobility Fund support “toward unserved locations where it will have the most significant impact.”⁵

In calculating which census blocks within CMA 251, CMA 259, CMA 614, and CMA 619 are served or unserved by 3G or better mobile wireless service, the Commission relies upon coverage data generated by individual mobile service providers which are then aggregated by Mosaik Solutions f/k/a American Roamer (“Mosaik”) to use as coverage maps in marketing material used by the carriers. As previously stated, numerous census blocks are incorrectly identified as unserved and eligible for Mobility Fund Phase I support. Keystone has identified 36 census blocks in CMA 251, 70 census blocks in CMA 259, 526 census blocks in CMA 614, and 131 census blocks in CMA 619 that are incorrectly labeled as unserved. These census blocks will receive 3G service from Keystone’s BIP project. A map depicting the 3G coverage area of Keystone’s entire BIP project is included as Attachment A. Maps showing the census blocks that will be covered by Keystone’s BIP project are set forth by CMA in Attachment B. There are a total of 763 census blocks that should be excluded from Auction 901 as a result of Keystone’s BIP funding. These census blocks that should be removed from Auction 901 are listed in Attachment C.

Additionally, Keystone would like to correct a minor oversight on the part of the Commission. Specifically, Keystone would like to address the qualification that the Commission appears to have placed on those carriers that may challenge the list of eligible census blocks. In the *Auction 901 Public Notice*, the Commission states that “in the *USF/ICC Transformation*

⁵ See *USF/ICC Transformation Order* at ¶341.

Order, the Commission required all wireless competitive ETCs in the high cost program to review the list of eligible census blocks for the purpose of identifying any areas for which they have made a regulatory commitment to provide 3G or better service or received a federal executive department or agency funding commitment in exchange for their commitment to provide 3G or better service.”⁶ Keystone is not currently a wireless competitive eligible telecommunications carrier (ETC), but should be allowed to comment on the list of eligible census blocks. Carriers that have made commitments to provide 3G or better service, under alternate federal programs such as BIP and BTOP are not limited to those that are wireless competitive ETC’s in the universal service high-cost program. The Commission should clarify that all wireless carriers are permitted to review the list of eligible census blocks for the purpose of identifying areas that are incorrectly characterized as both served and unserved. Allowing all wireless carriers, regardless of ETC status or plans to pursue Mobility Fund support, to provide input on the accuracy of the American Roamer data will (1) prevent duplication of federal funding for 3G service in the same areas; and (2) maximize the expansion of advanced wireless services with a limited amount of funds. Accordingly, Keystone proposes that any FCC licensed wireless carrier be permitted to review the list of eligible census blocks for the purpose of identifying any areas for which they can demonstrate the provision of 3G or better service under alternate federal programs.

⁶ *Auction 901 Public Notice* at ¶19. In the *USF/ICC Transformation Order*, the Commission states it “will require that all wireless competitive ETCs that receive USF high cost support, under either legacy or reformed programs, as well as all parties that seek Mobility Fund support, review the list of areas eligible for Mobility Fund support when published by the Commission and identify any areas with respect to which they have made a regulatory commitment to provide 3G or better wireless service or received a federal executive department or agency funding commitment in exchange for their commitment to provide 3G or better wireless service.” *USF/ICC Transformation Order* at ¶342.

Keystone supports the Commission's decision to award \$300 million in Mobility Fund Phase I support to rural areas. However, it is not in the public interest to distribute limited Mobility Fund support to areas that will receive 3G wireless service as a result of other federal funding. Accordingly, Keystone respectfully requests that the FCC correct its list of eligible areas to exclude the census blocks identified in Attachment C that will be served with 3G wireless service by Keystone's BIP project.

Respectfully submitted,

KEYSTONE WIRELESS, LLC d/b/a IMMIX WIRELESS

By: */s/ Caressa D. Bennet*

Caressa D. Bennet
Anthony K. Veach
Bennet & Bennet, PLLC
4350 East West Highway
Suite 201
Bethesda, MD 20814
(202) 371-1500

Its Attorneys

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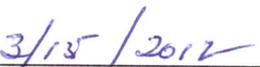
DECLARATION OF ROBERT C. MARTIN

I, Robert C. Martin, do hereby declare under penalty of perjury under the laws of the United States of America, the following:

1. I am the President of Keystone Wireless, LLC, d/b/a Immix Wireless ("Keystone").
2. On September 7, 2010, Keystone received notice for funding under the U.S. Department of Agriculture's Broadband Initiatives Program ("BIP") for a project that will provide 3G wireless broadband services in Berks, Centre, Clinton, Lycoming, Mountour, Northumberland, Schuylkill, Snyder, and Union Counties in central Pennsylvania.
3. Keystone's BIP award consists of an \$11,096,780 loan and a \$25,286,105 grant. Keystone is required to use all funds prior to June 30, 2015. Pursuant to the requirements of the program, BIP funding can and will be used only for capital investments.
4. Keystone has completed engineering designs, negotiated contracts with vendors, and purchased a building that will be the operation center and house the network core equipment for Keystone's 3G wireless broadband network. Keystone expects network construction to begin in earnest in the second quarter of 2012. Absent delay, Keystone expects to initiate 3G wireless service by December 31, 2012. Keystone must provide broadband service to the entire market defined in its proposed coverage area by June 30, 2015.
5. I have read the foregoing Comments. I have personal knowledge of the facts and representations set forth herein, and believe them to be true and accurate.



Robert C. Martin



Date