

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

To: Chief, Wireline Competition Bureau

**OPPOSITION OF MAIN STREET BROADBAND LLC
TO PETITION FOR WAIVER**

Main Street Broadband LLC (“MSB”), by counsel and pursuant to Sections 1.409 and 1.415 of the Commission’s Rules, hereby opposes, in the strongest terms possible, Petition for Waiver (“Petition”) filed on June 26, 2012 by CenturyLink. CenturyLink’s claims are unproven and false, and its Petition should be immediately dismissed.

Introduction

By way of background, MSB is a wireless broadband provider with residential, educational and business customers in Georgia and Florida. Its affiliate, Broadband South LLC, has been awarded \$33.8 million in Rural Utilities Service funding to provide

broadband services to certain rural communities within its footprint. MSB currently has approximately 5,500 subscribers.

MSB uses primarily leased Educational Broadband Service (“EBS”) spectrum in the 2.5 GHz band and a license it holds for Wireless Communications Service (“WCS”) spectrum in the 2.3 GHz band. MSB utilizes WiMax technology, which has proved to be very good at getting signal through trees and over terrain obstacles. Some of the areas MSB serves are within CenturyLink’s telephone service areas, but CenturyLink has chosen to not deploy broadband service in many of these areas.¹

Discussion

CenturyLink claims that there are 32 living units with MSB’s coverage area that should be designated as “unserved.” To support this allegation, CenturyLink relies on three assumptions. First, it asserts that the National Broadband Map shows that MSB ubiquitously covers an unbroken area of more than 10 miles, which it claims is unlikely. Second, CenturyLink assumes that MSB is using unlicensed spectrum. Third, CenturyLink argues that, because the State of Florida may not have independently verify mapping information provided to it, the National Broadband Map is inaccurate and overstates MSB’s coverage.² In reliance on certain assumptions, CenturyLink then substitutes its own analysis to conclude that there are precisely 32 living units that are depicted on the National Broadband Map as “served” which are actually “unserved” and thus available for Connect America Fund (“CAF”) Phase I subsidies.

¹ Attached hereto is the Declaration of Walter M. Zirkle, III, MSB’s President and Chief Operating Officer, certifying to the truthfulness and accuracy of the facts stated herein.

² See Petition at 6 and Exhibit C and Exhibit D.

Under long-standing precedent, a waiver proponent bears the burden of proof and faces a “high hurdle” to obtain the relief it requests.³ CenturyLink totally fails to meet this burden because it relies on flawed assumptions that, when exposed, demonstrate that CenturyLink has no case. The Petition therefore should be denied.

First, CenturyLink assumes that MSB is using low-power, unlicensed spectrum.⁴ In fact, MSB leases 2.5 GHz spectrum in the area that CenturyLink targets,⁵ and utilizes WiMax technology that provides superior coverage as compared to unlicensed spectrum. CenturyLink’s failure to acknowledge this – and, in the process, mislead the Commission into thinking MSB is using unlicensed spectrum exclusively – calls into question CenturyLink’s credibility and the accuracy of its so-called “evidence.” CenturyLink could have easily reviewed the Commission’s Universal Licensing Service database to see if the spectrum MSB uses might be licensed, but elected not to. Its failure to conduct basic due diligence must not be rewarded and surely does not help it meet its burden of proof.

Second, CenturyLink claims, without any supporting information or declaration, that the State of Florida did not independently verify the coverage information MSB provided to the State, and simply accepted the information at face value.⁶ Information that is not verified can still be accurate, an alternative CenturyLink fails to mention. In fact, the information MSB provided was based on “real-world” propagation analysis for the 2.5 GHz spectrum MSB uses, taking into account multiple tower locations each with

³ See *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1972), *cert. denied*, 93 S.Ct. 461 (1972).

⁴ See Petition at Exhibit A, Declaration of Peter Copeland, at 3.

⁵ In the CenturyLink wire center identified with the red arrow in Exhibit D, MSB Spectrum Holdings Inc., a subsidiary of MSB, leases spectrum from Tulane University (Call Sign WND218) (Lease ID L000008087).

⁶ See Petition at 6.

multiple sectors, allowable EIRP, specific antenna type, orientation and radiation centerline, terrain effects and density and type of vegetation. This should be abundantly clear from the irregular shapes of the coverage polygons in the Florida map CenturyLink included in Exhibit D of its Petition. These facts greatly outweigh CenturyLink's flawed assumption that 10 miles of "unbroken" coverage is "unlikely."

Third, if the State of Florida accepted MSB's coverage information at face value, it probably accepted CenturyLink's coverage data at face value as well. But CenturyLink wants only MSB (and the other targets of its Petition) to suffer from alleged inaccuracies in the National Broadband Map. Here, where MSB has shown that CenturyLink's assumptions are flawed and the "evidence" it relies on is false, CenturyLink's hypocrisy shines brightly.

Conclusion

MSB believes that its coverage is accurately depicted on the National Broadband Map, and that CenturyLink has not met its burden to prove otherwise. The Commission should dismiss CenturyLink's Petition with respect to MSB.

Respectfully submitted,

MAIN STREET BROADBAND LLC

Date: July 12, 2012

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Its Attorneys

Exhibit 1

Declaration of Walter M. Zirkle, III

My name is Walter M. Zirkle, III, and I am the President of Chief Operating Officer of Main Street Broadband LLC. ("MSB"). I am making this Declaration in support of MSB's Opposition to a Petition for Waiver filed on June 26, 2012 by CenturyLink. I have read MSB's Opposition. I hereby certify under penalty of perjury that the statements of fact contained in the Opposition are true and correct to the best of my knowledge, information and belief.



Walter M. Zirkle, III

11 JUL 2012

Date