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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association ("CCA") submits these comments in response to the *Public Notice* issued by the Wireless Telecommunications Bureau and Wireline Competition Bureau (the "Bureaus") on November 27, 2012 in the above-captioned dockets.[1] Although CCA may submit subsequent filings addressing the more granular issues in the *Public Notice* relating to the design and implementation of Phase II of the Mobility Fund, CCA focuses here on summarizing and reaffirming the overarching principles it has previously championed for this vital program and offers targeted suggestions to improve the program.

The *Public Notice* appears to assume that several key issues on which the Commission sought comment in the *USF/ICC Transformation FNPRM* have already been resolved, such as the use of auctions rather than a forward-looking cost model to distribute Phase II support. By the same token, the *Public Notice* suggests that no more than $500 million in annual funding will be available to wireless providers, notwithstanding various proposals that CCA and others made in response to the *USF/ICC Transformation FNPRM* that would increase that annual budget by redirecting funding tentatively slated for incumbent local exchange carriers. CCA urges the

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1 *Further Inquiry Into Issues Related to Mobility Fund Phase II*, Public Notice, WC Docket No. 10-9-; WT Docket No. 10-208, DA 12-1853 (rel. Nov. 27, 2012) ("*Public Notice*").

Bureaus to refrain from prejudicing the full Commission's consideration of alternative approaches on such critical program-design questions.

In addition to these broader concepts, CCA offers the Commission a few targeted suggestions which would streamline the application process and make Phase II of the Mobility Fund more cost efficient. Specifically, CCA urges the FCC to reform its requirement that long-form applications for each bid contain a separate commitment letter or letter of credit, and reduce some unnecessarily onerous implementation challenges.

In all events, the Bureaus should focus ensuring that the final rules are as competitively and technologically neutral as possible, and that promoting consumer welfare remains the touchstone.

BACKGROUND

CCA is the principal association representing competitive wireless providers across the United States. CCA represents the interests of more than 100 members, including rural, regional, and national wireless carriers that rely on high-cost universal service support. CCA's members also made up the vast majority of participants in Phase I of the Mobility Fund.

As the *Public Notice* observes, the Commission's *USF/ICC Transformation Order and FNPRM* "explicitly recognized the important benefits of and demand for mobile services through the creation of a two-phase Mobility Fund within the high-cost program."[2] Nevertheless, the *USF/ICC Transformation Order* called for substantial reductions in the amount of high-cost support flowing to wireless providers. Although wireless providers received well over $1 billion in support in 2011, and despite skyrocketing growth in the demand for wireless services (while

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2 *Public Notice* at 2 (describing *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order* or *USF/ICC Transformation FNPRM*")).

rural wireline connections plummet), the *USF/ICC Transformation Order* determined that the new Mobility Fund should be limited to a one-time allocation of $300 million in 2012, plus annual outlays of $500 million in recurring support through Phase II of the Mobility Fund. The *USF/ICC Transformation Order* did not resolve how such funds would be distributed; rather, the *USF/ICC Transformation FNPRM* sought comment on the use of reverse auctions as well as a forward-looking cost model.[3]

In contrast to the decision to slash funding for wireless providers,[4] the *USF/ICC Transformation Order* significantly *increased* the funding available to incumbent local exchange carriers ("LECs")—including in particular by giving price cap carriers an exclusive option to receive $1.8 billion in annual funding through the Phase II of the Connect America Fund ("CAF") (on top of the $2 billion-plus available to rate-of-return carriers).[5] But the *USF/ICC Transformation FNPRM* left the door open to modifications that could diminish the wireline preferences embedded in the *USF/ICC Transformation Order*. For example, the Commission sought comment on rule changes that would diminish support potentially available to incumbent LECs in the future—which in turn would free up additional funding that could be redirected to wireless carriers.

In response to the *USF/ICC Transformation FNPRM*, CCA (then known as RCA—The Competitive Carriers Association) filed comments urging restoration of more competitively and

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3 *See USF/ICC Transformation FNPRM* ¶¶ 1154-56, 1174-76.

4 The decision to slash more than $1 billion in funding for wireless deployment will result in significant service reductions that will negatively impact public safety and economic development in rural areas.

5 As a result of the *USF/ICC Transformation Order*, funding for wireless carriers was reduced by approximately 60 percent while funding for the price cap carriers increased by more than 60 percent. Wireless carriers now receive approximately 20 percent of the amount allocated for either the price cap carriers or the rate-of-return carriers.

technologically neutral policies.[6] In particular, CCA explained that the problems associated with separate funding mechanisms could be mitigated if the relative budgets for wireline and wireless support were not skewed so dramatically in favor of wireline carriers.[7] To that end, CCA argued that where price cap LECs declined funding through Phase I of the CAF, and to the extent they decline future funds for which they have a right of first refusal during CAF Phase II, such funding should be shifted to the Mobility Fund.[8] In addition, CCA supported changes to the rules governing rate-of-return carriers' support, which could make additional funding available for use by more efficient wireless providers.[9]

Most recently, CCA joined in a broad coalition representing competitive providers to raise serious concerns about the direction of the CAF and Phase II of the Mobility Fund.[10] As with CCA's prior advocacy, that letter urged the Commission to ensure that "upcoming decisions addressing issues pertaining to CAF distributions put the support programs on a more competitively and technologically neutral path and ensure that support is distributed efficiently."[11]

Support decisions should reflect the fact that increasingly reliable, high capacity, high-speed mobile technologies can and should be deployed in rural areas for both consumer (who in

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6 *See generally* Comments of RCA—The Competitive Carriers Association, WC Docket No. 10-90 *et al.* (filed Jan. 18, 2012) ("CCA FNPRM Comments"); Ex Parte Letter of RCA — The Competitive Carriers Association, WC Docket No. 10-90 *et al.* (Aug. 3, 2012).

7 CCA FNPRM Comments at 3.

8 *Id*. at 4-7.

9 *Id*. at 8-10.

10 *See* Ex Parte Letter of Rebecca Thompson (CCA), Ross Lieberman (ACA), Steven Morris (NCTA), Matt Larsen (WISPA), Dean Marson (EchoStar), Jeffrey Blum (DISH Network, LLC), and Michael Rapelyea (ViaSat, Inc.), WC Docket No. 10-90 (filed Dec. 14, 2012).

11 *Id.* at 1.

particular are choosing wireless over landline)[12] and enterprise communications.[13] In rural areas, federal support can best ensure nationwide broadband coverage through the efficiency of wireless technology.

CCA's comments in response to the *Public Notice* once again are intended to urge the Bureaus to reject proposals that would entrench non-neutral, technology-specific policies. Instead, the Bureaus should devote their resources to putting the CAF and Mobility Fund initiatives on a more pro-competitive and pro-consumer footing.

DISCUSSION

The *Public Notice* appears to accept as givens that the Commission will (a) limit Phase II support for wireless providers to $500 million (and to $400 million for non-tribal areas) annually, and (b) distribute such support using a reverse auction mechanism. But both issues remain subject to further consideration by the Commission and should not be treated as if they have been conclusively resolved.

First, as CCA has argued in response to the *USF/ICC Transformation FNPRM* and more recently, the Commission has various options available to increase the amount of Phase II funding available to wireless providers, and the record makes clear that it should pursue them. The price cap carriers' refusal of more than half of the funding made available during Phase I of the CAF program—in contrast to wireless carriers' full utilization of the Phase I Mobility Fund allocation—strongly supports CCA's argument that such funding can be more efficiently and effectively be used by wireless providers. At the very least, the starkly contrasting Phase I

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12 *See* S. J. Blumberg, J. V. Luke, et. al., *Wireless Substitution: State-level Estimates From the National Health Interview Survey, 2010–2011*, National Health Statistics Reports, at 2, available at http://www.cdc.gov/nchs/data/nhsr/nhsr061.pdf (October 12, 2012) ("Estimates for Adults and Children Living in Wireless-only Households").

13 The skyrocketing prevalence of wireless tablets, mobile hotspots for laptops, and mobile applications are all examples of consumer preference for wireless.

experiences militate strongly against placing arbitrary limits on the Phase II funding that will be made available to wireless providers. The Mobility Fund Phase I auction results demonstrate that wireless carriers can and will utilize efficient amounts of support to deploy broadband – a very positive "bang for the buck" result for the High Cost Fund – and the FCC should harness this energy and efficiency to provide ongoing broadband services to more of the country. This should be a national priority for all net contributors and in particular the FCC. Wireless technology should be used to achieve this priority.

Second, while the *Public Notice* focuses exclusively on auction design issues, the *USF/ICC Transformation FNPRM* sought comment on the alternative of relying on a forward-looking cost model to distribute support during Phase II of the Mobility Fund, and that option remains available. Indeed, as CCA noted in its comments, the Commission has long recognized that forward-looking cost models "best approximate[] the costs that would be incurred by an efficient carrier in the market" and thus "send the correct signals for entry, investment, and innovation."[14] Moreover, "a forward-looking economic cost methodology creates the incentive to operate efficiently and does not give carriers any incentive to inflate their costs or to refrain from efficient cost-cutting."[15] Consistent with these long-held principles, the Commission determined in the *USF/ICC Transformation FNPRM* that it "should use a forward-looking model to assist in setting support levels in price cap territories" in order to "maximize[] the number of locations that will receive robust, scalable broadband within the budgeted amounts" for Phase II of the CAF.[16] CCA continues to believe that the case for relying on a wireless cost model is as

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14 *Federal-State Joint Board on Universal Service,* Report and Order, 12 FCC Rcd 8776 ¶ 224 (1997).

15 *Id.* ¶ 226.

16 *USF/ICC Transformation Order* ¶¶ 184, 187.

strong as the rationale for employing a wireline cost model. The Bureaus should not foreclose the modeling approach that the Commission preserved in the *USF/ICC Transformation FNPRM* by devoting resources solely to auction-related proposals. To the contrary, CCA urges the Bureaus to pursue development of a wireless cost model for Phase II of the Mobility Fund with equal vigor, building on wireless modeling proposals submitted previously by CCA members.[17]

Such a model-based approach would better serve the Commission's goal of "maximiz[ing] the reach of mobile broadband services supported with[in] … [the] established budget in areas where there is no private sector business case for providing such services" than the proposed competitive bidding framework.[18] A single-winner auction would entrench the winning bidder for as long as the support is provided. In contrast, a model would provide support to multiple competitive carriers in direct proportion to their success in attracting customers. Expressly tying support payments to a carrier's success in capturing customers would allow the Commission to reduce funding needs while simultaneously promoting competition and operational efficiency. Particularly in light of the artificially constrained budget currently allocated for Phase II of the Mobility Fund, the Commission would be better served in reaching its goal of maximizing the availability of mobile broadband services by modifying its single-winner approach to enable multiple providers to compete for subsidies on an ongoing basis. Carriers can establish appropriate business models and deployment plans based on their projected penetration levels and the corresponding per-customer support payments.

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17 *See USF/ICC Transformation FNPRM* ¶ 1176; Comments of MTPCS, LLC d/b/a Cellular One, WC Docket No. 10-90 *et al.* (filed Aug. 24, 2011) (attaching CostQuest Associates, MTPCS USF MODEL DOCUMENTATION (Aug. 23, 2011) and Cost Quest Associates, MTPCS USF MODEL OUTPUT (Aug. 23, 2011)); Letter of David A. LaFuria, Counsel for US Cellular, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 *et al.* (filed Aug. 6, 2011) (attaching CostQuest Associates, U.S. CELLULAR USF MOBILITY MODEL REPORT (Aug. 5, 2011)).

18 *USF/ICC Transformation FNPRM* ¶ 1174.

Third, the Commission should make small changes to Phase II to streamline the application process and, more importantly, enable participants to submit more cost-efficient bids. For example, the Commission should not require separate commitment letters or letters of credit for each winning bid. Obtaining individual letters requires a carrier to expend valuable time, money and other resources, which directly results in unnecessarily higher bids. CCA recommends the FCC require only one letter of credit per winning bidder (rather than per winning bid). This recommendation would improve the efficiency of participants' bids and the program as a whole.

The Commission should also expand the number of areas eligible for Mobility Fund Phase II support, to ensure that the actual number of eligible areas (or more importantly the smaller number of areas where support is in fact won) is not so small as to foreclose access to more than one broadband service. Based on a comparison of the larger number of miles initially deemed eligible for support[19] with the smaller number of miles for which support was actually awarded,[20] CCA recommends the FCC make more areas eligible from the outset to expand access.

CCA recommends that the Commission restore the eligibility of all areas where rural citizens have access to only a single broadband service. If a single carrier discontinues broadband service in areas where there is only one broadband provider, the residents of these areas would be stranded without broadband services. That result flies in the face of the FCC's goals to ensure widespread access to broadband services. The Commission should therefore

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19 *See* FCC Mobility Fund Phase I Eligible Areas Map, *available at* http://www.fcc.gov/maps/mobility-fund-phase-1-eligible-areas.

20 *See* Mobility Fund Phase I Auction Results Map, *available at* http://apps.fcc.gov/auction901/map/auction_result_ext.html.

increase the number of eligible areas (and make available accompanying support for such areas) in order to avoid mass exodus from rural areas by small and regional wireless carriers.

Finally, the Commission can increase participation in Mobility Fund Phase II by reducing some of the implementation challenges, like drive testing on private roads and protected parkland, for example. Increased participation will lead to more efficient broadband deployment for the High Cost Funds as a whole.

CONCLUSION

As CCA has argued since adoption of the *USF/ICC Transformation Order*, the Commission should use the opportunity of the further rulemaking proceeding to mitigate the significant harms caused by the wireline preferences it established. The *Public Notice* further underscores the need for such a course correction, and also provides suggestions to administer the funds currently allotted for Phase II as efficiently as possible.

Respectfully submitted,

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