

**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 |
|  | ) |                      |
| <b>To: The Commission</b>                | ) |                      |

**COMMENTS OF  
THE BLOOSTON RURAL CARRIERS**

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Filed: December 21, 2012

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## Executive Summary

The Blooston Rural Carriers respectfully submit the following comments for the Commission's consideration regarding its *Further Inquiry* on Mobility Fund Phase II.

As an initial matter, the Blooston Rural Carriers support the Commission's proposal to allow areas in which a carrier received Phase I support to remain eligible for Phase II support for other carriers. Phase I support is not provided on an ongoing basis, and service exists in these areas only due to that initial government subsidy. Thus, there is no reasonable basis for considering the Phase I support recipient as an "unsubsidized" entity.

The Blooston Rural Carriers also propose a number of suggestions to help ensure Phase II funding is properly distributed, and that rural carriers are afforded a fair opportunity to compete in the auction.

With regard to map data, the underlying data supporting the eligibility map should be made available to small licensees at no cost, at least on a temporary basis, to the extent that data purports to describe the area for which the licensee holds spectrum rights for which it intends to seek Phase II support. As a related matter, it is of paramount importance that the data upon which the Commission bases its decisions be as accurate as reasonably possible.

Bidding credits should be made available for rural telephone companies and for areas with a population density significantly less than 100 persons per square mile. These credits would help promote competition by increasing participation by small rural carriers and by targeting funds at areas that are less likely to receive it despite having the greater need for it.

The Commission should also use census blocks rather than census tracts as the minimum bidding unit in Phase II, at least in rural areas. The use of census blocks instead of tracts helps target funds in hard-to-serve areas by allowing the providers to narrowly tailor their service areas

to those that can actually be affordably served with the help of support. This is one of the most important changes that the Commission can make to ensure small business and rural carrier participation in the Phase II auction.

The Commission must not, however, unilaterally change bandwidth or other performance characteristics associated with Mobility Fund support during the ten years that an award is in effect. Carriers are basing their bids and business plans upon the technical specifications and other requirements set forth in the Commission's Rules, and the possibility of changing those specifications and requirements mid-term creates unnecessary uncertainty and increases the difficulty of attracting private investment.

Reductions to certain provider eligibility requirements would increase participation in Phase II of the Mobility Fund. Specifically, the Commission should soften its ETC designation requirement by allowing carriers with pending ETC applications to participate in the Mobility Fund Phase II auction, and reduce or eliminate the standby letter of credit requirement.

Phase II funds should be disbursed on a recurring monthly basis in order to match income with expenses, as most mobile broadband carriers make their interest payments, and are billed and pay for most of their operating expenses, on a monthly basis.

Finally, the Blooston Rural Carriers urge the Commission to take this opportunity to require fair roaming terms and the elimination of exclusivity arrangements, in order to promote competition as required by the Telecommunications Act.

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**COMMENTS OF  
THE BLOOSTON RURAL CARRIERS**

The law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, on behalf of its clients listed in Attachment A (the “Blooston Rural Carriers”), hereby submits these comments concerning the Commission’s *Further Inquiry into Issues Related to Mobility Fund Phase II*.<sup>1</sup> The Blooston Rural Carriers urge the Commission to apply the lessons learned from the Mobility Fund Phase I application, by (1) allowing participants to bid on a census block basis; (2) allowing bidding on areas that received one-time support in Phase I; (3) creating a system of bid credits for rural telephone carriers and low population-density areas; (4) eliminating the letter of credit and other requirements that hinder small business and rural telephone participation in the auction; and (5) making other changes discussed below that will encourage participation of rural telephone companies and other small rural carriers.

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<sup>1</sup> Public Notice, DA 12-1852, WC Docket No. 10-90, WT Docket No. 10-208, released November 27, 2012. (“*Further Inquiry*”).

## **I. Statement of Interest**

The Blooston Rural Carriers are providers or resellers of wireless telecommunications and information services over licensed and/or unlicensed frequency bands, or are planning to commence the provision of wireless services within the foreseeable future. All are rural telephone companies or subsidiaries or affiliates thereof, and are participating in this proceeding on behalf of their existing or prospective wireless operations. The Blooston Rural Carriers participated extensively in the proceedings below by filing comments and reply comments in response to the Commission's *USF/ICC Reform Order and Further Notice of Proposed Rulemaking*.<sup>2</sup>

## **II. Areas Served through Phase I Support Should Not Be Considered Unsubsidized**

The Blooston Rural Carriers support the Commission's proposal to allow areas in which a carrier received Phase I support to remain eligible for Phase II support for other carriers.<sup>3</sup> The Blooston Rural Carriers support the Commission's proposal to allow areas in which a carrier received Phase I support to remain eligible for Phase II support for other carriers.<sup>4</sup> Phase I support is not provided on an ongoing basis, and service exists in these areas only due to that initial government subsidy. Moreover, the subject areas are, by nature of the Phase I auction,

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<sup>2</sup> *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 a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Reform – Mobility Fund; Report and Order and Further Notice of Proposed Rulemaking*, WC Dockets No. 10-90, 07-135, 05-337, 03-109; CC Dockets No. 01-92, 96-45; GN Docket No. 09-51; WT Docket No. 10-208, released November 18, 2011 (*USF/ICC Order and FNPRM*).

<sup>3</sup> Indeed, the Blooston Rural Carriers continue to challenge the Commission's decision to eliminate support in areas where an unsubsidized provider offers 3G or better service.

<sup>4</sup> Indeed, the Blooston Rural Carriers continue to challenge the Commission's decision to eliminate support in areas where an unsubsidized provider offers 3G or better service.

fringe or gap areas.<sup>5</sup> Making them ineligible for Phase II due to the receipt of Phase I funding will only complicate the Phase II plans of other carriers by creating gaps in support (and therefore, coverage) for areas that differ from, but overlap some or all of an area that received Phase I support. Hence, it is reasonable and good public policy for the Commission to allow areas in which a carrier received Phase I support to remain eligible for Phase II support for other carriers.

### **III. Mosaik Data Must Be Improved and Made Available to Carriers**

If the Commission ultimately chooses to rely upon the private and restricted Mosaik database to determine the availability of service and, in turn, the eligibility of areas for Phase II support, certain safeguards must be put into place. In this regard, the underlying data supporting the eligibility map must be made available to small licensees without cost, at least on a temporary basis, to the extent that data purports to describe the area for which the licensee holds spectrum rights for which it intends to seek Phase II support.

In connection with the Mobility Fund Phase I auction, some small service providers with partitioned geographic licenses were unable to participate in the auction because they were not able to accurately translate the Commission's graphical depiction of eligible unserved areas (i.e., the map shapefiles based on the Mosaik data) into served/unserved census blocks in order to independently confirm the road miles that they would need to serve. This is significant because to the extent that unserved road miles are the basis for calculating Mobility Fund bids, a miscalculation of road miles could have a significant impact on a per-mile calculation of support,

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<sup>5</sup> *USF/ICC Order and FNPRM* at ¶301.

and whether a particular bid proves successful. While the "shapefile" maps that the Commission's staff provided were helpful in seeing the larger picture and identifying eligible unserved areas, it proved extremely difficult for carriers that were interested in serving smaller geographic areas, in the absence of access to the underlying Mosaik data, to match the shapefiles to the block-by-block road mile data provided in the "Attachment A" files. Identifying eligible unserved census blocks by overlaying the unserved area shapefile and manually determining whether individual census blocks were covered at their centroid proved to be inaccurate and unworkable for small service providers who in most cases do not have access to the Mosaik data and teams of IT and GIS experts.

As a result, some small carriers that wanted to participate in the Mobility Fund Phase I auction were dissuaded from bidding because they were unable to correlate the unserved area maps with the eligible census blocks data, even though the maps purported to be an "interactive visual representation of data from the Attachment A files."<sup>6</sup> The Blooston Rural Carriers believe this situation can and should be remedied for the Mobility Fund Phase II auction by providing interested bidders with access to the underlying Mosaik data.

Given the noted inaccuracies in the Mosaik database and the increasingly limited availability of universal service support, the Commission should not force interested parties to pay substantial out-of-pocket costs just to cross-check the reliability of that data. Access to this data will increase bidder confidence, which will encourage greater participation in the auction, and competitiveness of Mobility Fund bidding. At a minimum, carriers should be allowed a "free look" at the Mosaik database, if only to the extent that it purports to provide data on that applicant's proposed service area, since this should help to ensure that it accurately depicts areas

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<sup>6</sup> "General Information" section of the Auction 901 web site, at [http://wireless.fcc.gov/auctions/default.htm?job=auction\\_summary&id=901](http://wireless.fcc.gov/auctions/default.htm?job=auction_summary&id=901))

that are served and unserved. Otherwise, complications such as those described above could occur. Allowing a “free look” could, for example, be accomplished pursuant to a protective order similar to those implemented in discovery proceedings that would allow a carrier’s engineers or technicians to verify the accuracy of the service data in a limited service area, but prohibit access by marketing and other departments and personnel to whom Mosaik desires to sell its data.

Finally, the Commission should continue to allow carriers the opportunity to correct inaccurate map data by filing corrected data, similar to the way this was done in Phase I. The Blooston Rural Carriers found the procedure for Phase I to be workable, but would urge the Commission to (1) allow more time to prepare the filing and (2) advertise the availability of the procedure more visibly. Many carriers did not find out about the availability of the process until just before the deadline, and were left with little time to participate.

Regardless of the source of the Commission’s unserved area data, the accuracy of this data is of paramount importance. As the Commission recognized in the *Further Inquiry*, Phase I represents a valuable learning opportunity for Phase II, and the Blooston Rural Carriers respectfully submit that the above proposals should be implemented for Phase II. Not all carriers have shared their network coverage information with American Roamer/Mosaik, so the “picture” that results from this data may not be entirely accurate in all geographic areas. This is especially true when one gets down to individual census blocks at the margins of network coverage, which tend to be in rural areas. The award of Phase II Mobility Fund support is far too important to base support grants on data that may be incorrect or incomplete. The Commission has previously granted extensions of time to allow the industry to better evaluate complex technical matters and

provide a more complete record.<sup>7</sup> Moreover, the Commission has experienced substandard auction results when forced to follow an unduly rushed pre-auction schedule. Congress clearly and expressly required the removal of artificial time pressures from the auction process by including in Section 309(j)(3) of the Communications Act, a provision mandating that the methodologies for competitive bidding be designed by the Commission to:

- (E) ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed—
  - (i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and
  - (ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services;

Since identifying areas where 3G or better service is or is not currently available will be central to the formation of many small carriers' business plans, it is respectfully submitted that these same principles must also apply to reverse auctions so that the intent of Congress is fulfilled in the conduct of the Mobility Fund Phase II auction. At minimum, the Commission should make sure that the Mosaik data and maps have been updated to include the coverage showings made by carriers ahead of the Phase I auction.<sup>8</sup>

#### **IV. Bidding Credits Should Be Implemented for Rural Carriers and Areas with Low Population Density**

The Commission should prioritize its support to rural carriers in Phase II by offering a bidding credit for entities that qualify as a “rural telephone company” under Section 51.5 of the

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<sup>7</sup> See, e.g., *Intelligent Transportation System Applications*, WT Docket No. 01-90, Order, 16 FCC Rcd 7985 (2001); Reallocation of the 216-220 MHz, 1390-1395MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz and 2385-2390 MHz Government Transfer Bands, ET Docket No. 00-221, Order Granting Extension of Time, 16 FCC Rcd 3651 (2001).

<sup>8</sup> *Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements*, Public Notice, DA 12-121, released February 2, 2012, at ¶19.

Commission’s Rules, or a subsidiary or affiliate of a qualified rural telephone company.<sup>9</sup> This is consistent with the Commission’s obligation to promote participation in the provision of spectrum-based services as directed in Section 309(j) of the Telecommunications Act,<sup>10</sup> and would help eligible companies compete with large regional and nationwide carriers. This rural telco bidding credit should be available in addition to any other credit for which an applicant may be eligible. Rural telephone companies and their wireless affiliates almost uniformly target areas with little or no existing mobile voice or mobile broadband service. This will avoid the need to create multiple tiers of “unserved” designation to differentiate between areas that are “more unserved” or “less unserved” than others, which would needlessly complicate the auction process. To this end, a bidding credit of 35 percent would be appropriate for a rural telephone company.

The Blooston Rural Carriers also support the adoption of a “low population density” bidding credit. Regardless of whether road miles adequately reflect Mobility Fund goals, it is important to ensure that funding is directed to the areas that need it most – i.e., those with low population densities. It is these low population density areas that represent the untenable business cases that necessitate assistance through universal service, and road miles do not necessarily reflect this fact.

This credit would be in addition to the rural bidding credit discussed above, as the population density of areas served by rural telephone companies can vary significantly. At the same time, the Commission should incentivize the provision of service to areas with low population densities because of the relatively poor business case to be made there. The Blooston Rural Carriers believe bidders whose license areas have a population density significantly below

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<sup>9</sup> 47 CFR 51.5; see also 47 USC 153(44).

<sup>10</sup> 47 USC 309(j)

100 persons per square mile should be eligible for this bidding credit.<sup>11</sup> In this way, carriers proposing to serve these sparsely populated areas can effectively compete with carriers bidding in more densely populated areas, in line with the Act's pro-competitive requirements.<sup>12</sup>

A low population density credit of 25 percent would be appropriate. In the event that a carrier qualifying for this credit is also qualified for another bidding credit, such as the rural telephone company credit proposed above, the Commission should allow the credits to be cumulative. If not directly additive (i.e.,  $25\% + 35\% = 60\%$ ), a significant portion of each credit should be allowed when multiple credits are used together. For example, a rural telephone company bidding to serve an area with a population density significantly less than 100 might be allowed a 50 percent bidding credit.

Finally, the Commission should not determine how the Remote Areas Fund will interact with Phase II at this time. Rather, the nature and extent of the areas (if any) remaining unserved by any carrier after implementation of the Phase II mechanism, and after implementation or modification of the various wireline high-cost mechanisms, should inform how the Remote Area Fund is to be designed, funded and distributed. The Remote Areas Fund will be a very small fund that should be limited to those areas that are so remote and expensive to serve that the support offered by the other wireline and mobility service mechanisms was not sufficient to induce or enable any wireline or wireless carrier to deploy broadband-capable facilities to serve them. In short, the Remote Areas Fund is a "last resort" mechanism, and need not be designed or implemented until it can be reasonably estimated what areas will remain unserved by the other high-cost mechanisms, including the Mobility Fund Phase I and Phase II mechanisms

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<sup>11</sup> *Compare Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies to Provide Spectrum-Based Services*, WT Docket No. 02-381, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 19078 (2004).

<sup>12</sup> *Further Inquiry* at ¶4.

## V. Census Blocks Should Be the Minimum Bidding Unit

The Commission should use census blocks rather than census tracts as the minimum bidding unit in Phase II, at least in rural areas. While Phase I arguably warranted the increased ease of use offered by census tracts because of the relatively small size of the funding and the one-time only nature of support, Phase II should be more carefully and more precisely implemented.<sup>13</sup>

The use of census blocks instead of tracts helps target funds in hard-to-serve areas by allowing providers to narrowly tailor their service areas to those that can actually be affordably served with the help of support.<sup>14</sup> For example, the smaller census blocks help potential support recipients to deal with complex terrain by allowing them to omit unpopulated areas where few people go and where service needs are rare or nonexistent. In more populated areas, rural carriers also often partition wireless licenses that approximate their certificated telephone service area, which may not cover an entire census tract. Indeed, several interested rural carriers were not able to participate in Phase I for that reason. Phase I of the auction showed that use of census blocks was workable in Alaska, due to the larger-than-average size of census blocks there.<sup>15</sup> Although not as large as census blocks in Alaska, census blocks in rural areas are also often far larger than those in urban areas due to lower population density and sparse geographic features with which to draw block boundaries. The Blooston Rural Carriers respectfully submit that, at minimum, this approach should be extended to all rural areas in Phase II.

At the same time, the Commission should continue to be mindful of large carriers' ability to accumulate small units like census blocks into large "daisy chain" bid proposals that

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<sup>13</sup> Indeed, the Commission has recognized the need for precise targeting of Phase II funding in the *USF/ICC Order and FNPRM*. See *USF/ICC Order and FNPRM* at ¶1124.

<sup>14</sup> *Id.* at ¶1124.

<sup>15</sup> *Id.* ¶¶138-141.

effectively shut out small carriers.<sup>16</sup> To the extent that the Commission allows carriers to combine census blocks into larger bidding areas, the size of such packages should be limited to the Cellular Market Areas (CMAs) or Basic Trading Areas (BTAs) that have traditionally been the most common license areas available in spectrum auctions. In other words, a Phase II participant could bid for as many census blocks as it desired within each CMA or BTA, but would have to bid separately for census blocks in different CMAs or BTAs. This approach will allow both large and small carriers to compete on a relatively “apples-to-apples” basis.

## **VI. Performance Targets Must Remain Consistent Throughout the Term of Support**

The Commission must not unilaterally change bandwidth or other performance characteristics associated with Mobility Fund support during the ten years that an award is in effect. Carriers are basing their bids and business plans upon the technical specifications and other requirements set forth in the Commission’s Rules. When the Commission accepts a carrier’s bid and awards it a specific amount of high-cost support for a specific set of service metrics in a particular area, the Commission and the carriers are essentially entering into a ten-year contract for the carrier to provide the required service to the area. Whereas the Commission and the carrier can mutually agree to modify their “contract” to deploy increased bandwidth or enhance other service metrics with an appropriate modification of support to accommodate the increased costs thereof, the Commission cannot and should not be able to increase service requirements and costs unilaterally without any change in support. In addition to the gross unfairness of such a situation, the Commission’s reservation of an ability to make unilateral changes would create unacceptable risk and unpredictability that would deter the provision of

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<sup>16</sup> *Comments of the Blooston Rural Carriers*, WC Docket No. 10-90, et al., filed January 18, 2012, at 10.

financing by outside lenders and investors, or increase the costs and terms of outside financing to unacceptable levels.

The Blooston Rural Carriers recognize that this is a very difficult issue because mobile broadband technology has advanced rapidly during recent years, and is virtually certain to continue to do so during the ten-year term of the Phase II auction. However, the Commission simply cannot encourage carriers to make the lowest acceptable bid for a specific set of mobile broadband service requirements and metrics, and then reserve to itself the unilateral right to make potentially expensive changes to these performance characteristics during the term of the arrangement without any corresponding increase in support. This is especially true since a technology change or upgrade which makes sense in a densely-populated urban area (where costs of equipment and software can be spread of tens or hundreds of thousands of customers) may be prohibitively expensive in a rural area with a few thousand customers, at least until equipment costs fall over time. The only equitable way to preserve flexibility to respond to technological and market changes during the 10-year term of the arrangement is to establish a process for bilateral negotiation by the Commission and Phase II auction winners of changes to performance characteristics and support.

## **VII. Certain Eligibility Requirements Should Be Modified**

The Commission should reduce certain provider eligibility requirements in order to increase participation in Phase II of the Mobility Fund. As the Commission has recognized, the whole purpose of the universal service fund, in any incarnation, is to attract service to areas that

essentially have no operable business case in the absence of subsidization.<sup>17</sup> Unnecessarily steep eligibility requirements simply deter potential service providers from participating for reasons completely unrelated to their ability to successfully provide service. The sense of urgency accompanying Phase I should not be an overriding consideration for Phase II, given the ongoing nature of Phase II support. To this end, the Commission should soften its ETC designation requirement by allowing carriers with pending ETC applications to participate in the Mobility Fund Phase II auction, and by reducing or eliminating the standby letter of credit requirement.

*A. Pending ETC Applications with State Commissions Should Be Sufficient*

Pending petitions for ETC designation with the relevant state commission should be sufficient to allow a carrier to participate in Phase II Mobility Fund auctions. For the Mobility Fund Phase I, the Commission allowed only a matter of weeks from the official announcement of the short form deadline for carriers to not only apply for, but actually receive ETC designation.<sup>18</sup> Rather than setting such a brief and frequently unattainable ETC period for Phase II, the Commission should announce a filing window for applications for ETC designation for the purpose of participating in Phase II with the relevant state commission, thereby allowing carriers to participate without arbitrarily reducing state commissions' time frame for considering such applications.

The Commission's concern that a particular bidder's ETC application may not ultimately be granted can be addressed by requiring that the ETC grant be in place by the start of actual bidding.

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<sup>17</sup> *Id.* at 15.

<sup>18</sup> See, *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901*, Public Notice, AU Docket No. 12-25, DA 12-641, released May 2, 2012.

*B. Standby Letter of Credit Requirement Should Be Relaxed or Removed*

The Commission should reduce or eliminate the irrevocable letter of credit and default payment requirements it adopted for Phase I of the Mobility Fund. As the Blooston Rural Carriers demonstrated in the past, this requirement does more harm than good, at least when applied to small rural carriers, often amounting to an unsurmountable barrier to entry.<sup>19</sup> Simply put, many rural carriers are small businesses that do not have the financial resources or the established relationships with major banks that would enable them to reasonably obtain a letter of credit meeting the Commission's Phase I standard. As a result, most rural wireless carriers are unlikely to be able to obtain the LOCs contemplated by the Commission from any of the institutions with which they have established financial relationships, and will consequently be effectively excluded from Mobility Fund. At the same time, small rural carriers are bound to the communities they serve by more than just the prospect of profit, and often have outstanding records when it comes to commitments to their communities, and to the Commission. The Commission should therefore reduce or eliminate the LOC requirement.

**IX. Funds Should Be Distributed on a Regular Basis**

Phase II funds should be disbursed on a recurring monthly basis. Like most firms, mobile broadband carriers make their interest payments, and are billed and pay for most of their operating expenses, on a monthly basis. Hence, monthly disbursements are consistent with the business operations and cash flow needs of mobile broadband carriers. Regular recurring support also simplifies administrative and monitoring functions by making it easier for carriers

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<sup>19</sup> *Comments of the Blooston Rural Carriers, supra* fn. 18, at 17.

and the Commission to ensure that support is used and accounted for correctly. Hence, support for Phase II recipients should be distributed on a monthly basis in the same manner than support from most other high-cost mechanisms has generally been disbursed.

## **X. Additional Topics**

In addition to the above, the Blooston Rural Carriers continue to advocate for fair roaming terms and the elimination of exclusivity arrangements. The Commission should take this opportunity to address these long-time rural concerns.

### *A. The Commission Should Require Fair Roaming Terms*

The Commission should require all carriers to permit Mobility Fund Phase II support recipients to obtain roaming rights on other networks, in order to ensure they can compete. For Phase I, the Commission went beyond its existing roaming rules to require Phase I recipients to offer roaming on networks built with Phase I support, but did not take similar steps to ensure that those carriers would be able to obtain reasonable roaming terms for their own customers.<sup>20</sup> The Blooston Rural Carriers and others have repeatedly shown that large carriers have little or no incentive to negotiate with small carriers when it comes to roaming, despite the Commission's existing rules.<sup>21</sup>

It is clear that something more is needed, not only to protect smaller carriers but also to ensure that Mobility Fund Phase II support does not go to waste. Small and rural carriers need access to roaming at affordable rates in order to meaningfully provide service with Mobility Fund support.

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<sup>20</sup> *Comments of the Blooston Rural Carriers, supra* fn 18, at 12-13.

<sup>21</sup> *Id.*

*B. Equipment Exclusivity Arrangements Should Be Prohibited*

The Commission should also require recipients of Mobility Fund Phase II support to certify that they do not and will not participate in equipment exclusivity arrangements. The Blooston Rural Carriers and others have shown the harms to competition and rural consumers that have arisen from the existence of exclusivity arrangements for popular wireless devices.<sup>22</sup> Simply put, these agreements impair small carriers' ability to meaningfully compete with the industry giants by depriving the customers of such small carriers of the ability to obtain and make use of these highly sought-after devices. One needs look no further than Apple, Inc.'s iPhone, which accounted for a significant increase in subscribership for AT&T when the device was only available on its network.<sup>23</sup>

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<sup>22</sup> *Id.* at 14. See also, *Rural Cellular Association Petition for Rulemaking Regarding Exclusivity Arrangements Between Commercial Wireless Carriers and Handset Manufacturers*, RM-11497, (filed May 20, 2008); *Comments of Blooston Rural Carriers*, RM-11497, (filed Feb 2, 2009).

<sup>23</sup> Cite for %.

**XI. Conclusion**

It is respectfully requested that the Commission adopt procedures for the Mobility Fund Phase II auction consistent with the above proposed changes.

Respectfully submitted,

**BLOOSTON RURAL CARRIERS**

By \_\_\_\_\_ s/ John A. Prendergast

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Filed: December 21, 2012

## **Attachment A: The Blooston Rural Carriers**

Buggs Island Telephone Cooperative

Cedar-Wapsie Communications, Inc.

Custer Telephone Cooperative, Inc.

Fuego Wireless, LLC

KTC AWS LLC

Nucla Naturita Telephone Company

Smithville Tel

Walnut Telephone Company, Inc.

WUE, Inc.

**Certificate of Service**

I hereby certify that a copy of the forgoing **Comments of the Blooston Rural Carriers** was sent on December 21, 2012 via electronic mail to the following:

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