

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

In the Matter of

Connect America Fund

Universal Service Reform – Mobility Fund

WC Docket No. 10-90

WT Docket No. 10-208

REPLY COMMENTS OF THE USA COALITION

The Universal Service for America Coalition (“USA Coalition”), by its attorneys, respectfully replies to comments submitted in response to the Federal Communications Commission’s (“FCC” or “Commission”) Further Inquiry Into Issues Related to Mobility Fund Phase II.¹ The USA Coalition urges the FCC to increase the size of Mobility Fund Phase II to more accurately reflect both the need for additional support to deploy wireless networks in high cost areas and in recognition of the importance of a competitive wireless market. The Commission should adopt Mobility Fund Phase II auction rules that provide sufficient support for wireless services; promote competition and encourage a wide range of participants; and do not unfairly limit the ability of smaller carriers to participate in the Fund.

I. THE RECORD REFLECTS THAT ADDITIONAL SUPPORT IS NECESSARY TO DEPLOY WIRELESS SERVICES IN HIGH COST AREAS

The USA Coalition joins with other commenters urging the Commission to explore options for increasing the amount of support available to wireless carriers in Phase II of the Mobility Fund.² As Competitive Carriers Association (“CCA”) notes, the *NOI* “appears to accept as given[] that the Commission . . . will limit Phase II support for wireless providers to \$500

¹ Further Inquiry Into Issues Related to Mobility Fund Phase II, DA 12-1853 (rel. Nov. 27, 2012) (“*NOI*”).

² See, e.g., CCA Comments at 5; U.S. Cellular Comments at 2.

million (and to \$400 million for non-tribal areas) annually.”³ This level of funding is inadequate to accomplish the Commission’s stated goals of ubiquitous mobile broadband deployment. As U.S. Cellular explains, the proposed Mobility Fund Phase II funding levels “amounts to approximately *one-third* of the funding available for mobile wireless deployment and operations in rural areas under the capped high-cost funding mechanism.”⁴ Given that Mobility Fund Phase II will eventually entirely replace all competitive support, short shrift has been given to the Act’s requirement that universal service support be “sufficient” to ensure that consumers in rural areas have access to reasonably comparable services at reasonably comparable prices as those enjoyed by consumers in urban and suburban areas.

In its comments U.S. Cellular correctly points out why the support proffered is demonstrably “insufficient” from the perspective of Section 254 of the Act. In support of its argument U.S. Cellular offers compelling evidence derived from the results of the recently completed Mobility Fund Phase I auction:

Phase I support will be used to provide 3G or better mobile voice and broadband services covering up to 83,494 road miles, which amounts to 12.83% of the 650,392.78 road miles that were eligible for support. In addition, 14,245 geographic areas were eligible for Phase I support, but only 795 biddable geographic areas actually received support.⁵

As U.S. Cellular’s analysis highlights, \$300 million was barely enough to cover 5% of the geographic areas eligible for “one time” support, yet the Commission expects \$400 million to be sufficient to provide ongoing support for wireless carriers already receiving support to serve high cost and rural areas in addition to promoting the expanded deployment of wireless services into

³ *Id.*

⁴ U.S. Cellular Comments at 3 (emphasis in original).

⁵ *Id.* at 4 (internal citations committed)

currently unserved areas. Beyond being facially unrealistic, these amounts cannot be plausibly argued to comport with the Act's sufficiency requirements.

Before doubling down upon a support figure that was first set forth well before the FCC's actual experience with Mobility Fund Phase I, the Commission should pause to address the demonstrable shortcomings in the amount of Mobility Fund Phase II support available. Fortunately, as CCA and NTCH both point out, the Commission has options readily available to it to rectify the situation without increasing the overall size of the universal service fund.⁶ For example, the Commission should consider whether the CAF Phase I funding, which was declined by more than half of the eligible ILECs, could be more efficiently used by wireless carriers either as a part of Mobility Fund Phase II or through another distribution mechanism.⁷ Similarly, where savings are realized elsewhere in the Commission's reform efforts, such as when an incumbent declines to make a state-level commitment under the CAF Program, serious consideration should have been given to providing additional funding under Phase II of the Mobility Fund. The USA Coalition calls upon the Commission to seek additional comment on ways to increase the amount of funding available to support wireless services in high cost areas before it drafts any rules for distributing Mobility Fund Phase II support.

II. PHASE II OF THE MOBILITY FUND SHOULD BE DESIGNED IN A MANNER THAT DOES NOT HARM CONSUMERS OR COMPETITION

The USA Coalition joins with CCA in calling for the Commission to design Phase II of the Mobility Fund in a manner that:

- best approximates the costs that would be incurred by an efficient carrier in the market;
- sends the correct signals for entry, investment, and innovation; and

⁶ CCA Comments at 5; NTCH Comments at 2 (advocating that the \$185 million in unclaimed CAF Phase I support be made available to any carrier who is willing and able to deliver broadband to unserved areas).

⁷ *Id.*

- does not give carriers any incentive to inflate their costs or to refrain from efficient cost-cutting.⁸

To the extent that the Commission remains committed to using reverse auctions to distribute funding under Phase II of the Mobility Fund, the Commission should modify its plan to support more than one wireless ETC in each supported area in order to ensure that rural consumers have reasonably comparable access to competitive services similar to their urban counterparts.

Indeed, the problems with a single winner auction have been amply documented in this proceeding, and have not conveniently vanished since the pleading cycle establishing the Connect America Fund and the Mobility Fund Phase I closed. As U.S. Cellular explains:

The current record raises numerous reservations regarding whether a single-winner reverse auction is an appropriate universal service funding mechanism. For example, in response to the *CAF FNPRM*, commenters expressed concerns regarding whether the Phase I reverse auction mechanism will have the effect of hampering carriers' access to private investment to support broadband deployment, whether economically inefficient projects will be selected, whether the reverse auction mechanism will result in a 'race to the bottom' in terms of service quality and will not achieve universal service and whether the single-winner reverse auction will lead to saddling rural consumers with high-priced, low-quality broadband services.⁹

In addition, concerns have been raised by several parties regarding the advisability of using a single-winner reverse auction. C-Spire Wireless, for example, has argued that a single-winner reverse auction, by installing an exclusive fund recipient in each eligible service area and consequently eliminating funding portability, would overturn the Commission's principle of competitive neutrality and undermine its commitment to facilitating competitive entry, and would also risk "saddling rural consumers with high-priced, low-quality broadband services from

⁸ CCA Comments at 6.

⁹ U.S. Cellular Comments at 14.

a single provider, precisely the problem that the Telecommunications Act of 1996 . . . was intended to solve.” While the Commission may weight its statutory obligations in forming policies, it may not discard certain requirements entirely in pursuit of other, non-statutory goals.

The USA Coalition and its constituent members have consistently opposed the creation of a single-winner support system as inconsistent with the requirements of the Act and the Commission’s own pro-competition policies.¹⁰ Any proposal that would award support to only one auction winner is fundamentally inconsistent with the Act’s requirement that universal service policies promote competition and technological innovation.¹¹ To the extent the FCC elects to rely upon reverse auctions, such as those employed in Mobility Fund Phase I, a minimum of two service packages should be auctioned in each area. The USA Coalition and its members have proposed such a multiple-winner auction mechanism in the past and reiterates its support for a pro-competitive mechanism here.¹² Such an approach would ensure that consumers in supported areas enjoy the benefit of competitive choice and that the Commission would not inadvertently exacerbate consolidation by making it impossible for regional and smaller carriers to compete in the wireless marketplace.

¹⁰ See Comments of the USA Coalition, WC Docket Nos. 10-90 *et al* at 34-40 (filed July 12, 2010); Reply Comments of the USA Coalition, WC Docket Nos. 10-90 *et al* (filed Aug. 11, 2010); Comments of Rural Cellular Association, WC Docket Nos. 10-90 *et al.* at 14 (filed July 12, 2010); Reply Comments of SouthernLINC Wireless, WC Docket Nos. 05-337 *et al.* at 9-11 (filed Dec. 22, 2008).

¹¹ See Preamble, Telecommunications Act of 1996, P.L. 104-104, 100 Stat. 56 (1996) (stating that the purpose of the Act is “to promote competition . . . regardless of where [Americans] live and work.”); *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Order and Report, 11 FCC Rcd 15499 ¶ 1 (1996) (“By reforming the collection and distribution of universal service funds, the states and the Commission would ensure that the goals of affordable service and access to advanced services are met by means that enhance, rather than distort competition.”).

¹² Comments of the USA Coalition, WC Docket Nos. 10-90 *et al* at 13 (filed Jan. 18, 2012); Reply Comments of SouthernLINC Wireless to Mobility Fund NPRM, WC Docket No. 10-208 at 6-10 (filed Jan. 18, 2011).

To further facilitate competitive choice, the USA Coalition joins with numerous commenters in urging the Commission to permit carriers to bid for support on a more granular basis than in Mobility Fund Phase I. As the Blooston Rural Carriers explain, “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.”¹³ The use of census blocks instead of tracts, combined with the use of advanced auction techniques to permit iterative bidding across self-selected aggregations of census blocks within each state, will permit carriers to deploy their networks in a manner most efficient for them, taking into account the particular challenges of the area that drive costs up, and thereby ensure the greatest possible participation in the auction process.¹⁴

III. THE COMMISSION SHOULD PROVIDE BIDDING CREDITS TO SMALL ETCS AND PRIORITIZE BIDDING AREAS

The USA Coalition joins with the Rural Telecommunications Group (“RTG”) in urging the Commission to consider providing bidding credits to carriers that meet certain public interest objectives. As RTG explains, bidding credits should be awarded to: (1) carriers that are small businesses; (2) carriers already providing mobile wireless service to rural areas; (3) carriers with a history of offering telecommunications services to rural markets; and (4) carriers who seek to serve currently “unserved” areas.¹⁵ Basing bidding credits upon this set of criteria will enable the Commission to target support to carriers that have a long history of serving high cost areas and

¹³ Blooston Carrier Comments at 9.

¹⁴ *Id.* See also USA Coalition Comments at 7; SouthernLINC Wireless Mobility Fund NPRM Reply Comments, WC Docket No. 10-208, at 6-10 (Jan. 18, 2011).

¹⁵ RTG Comments at 14-15. In implementing these credits, the USA Coalition urges the Commission to redefine “small business” to reflect the fact that many “small” wireless carriers have average gross revenues in excess of that generally used to identify small businesses for other regulatory purposes. Further, the Commission should exclude any current USF-support revenues from the determination of whether the company is a “small business.”

that can leverage existing assets and experience to do so more cost-effectively. To the extent that the Commission adopts reverse auction mechanisms (whether single winner or multiple winner), these policies would also offset some of the competitive harm that necessarily accompanies such policies.

* * *

CONCLUSION

The USA Coalition urges the Commission to adopt Mobility Fund Phase II Rules that enlarge the size of the fund to a sufficient level, promote competition, encourage participation by wide a range of bidders as possible, and do not unfairly limit the ability of smaller carriers to participate.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Todd D. Daubert', with a long horizontal flourish extending to the right.

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