

**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

**REPLY COMMENTS
of
UNITED STATES CELLULAR CORPORATION**

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SUMMARY

Commenters responding to the Mobility Fund Phase II Further Inquiry Public Notice agree with U.S. Cellular that two core issues overhang the Commission's apparent intention to press ahead as quickly as possible with implementation of Phase II: The Commission has not budgeted sufficient funding to enable Phase II to accomplish the Commission's stated objectives for mobile voice and broadband deployment, and it will take additional time for the Commission to properly take the results of Mobility Fund Phase I into account in making decisions regarding the disbursement mechanisms, rules, and requirements for Phase II.

The record also supports U.S. Cellular's views, expressed in its Comments, regarding criteria and mechanisms the Commission should establish to determine service area eligibility, the term of support for Phase II, the modification of public interest obligations and performance metrics, and several other issues summarized in the following paragraphs.

Insufficient Funding.—There is agreement in the record that the Commission's budget for Mobility Fund Phase II is insufficient, that it represents a substantial and unjustified decrease in the current level of funding available for mobile voice and broadband services, and that the Phase II budget is disproportionately low in comparison to the level of support the Commission has continued to make available to price cap and rate-of-return incumbent carriers.

The record also supports U.S. Cellular's view that the Commission should act to make more funding available for mobile voice and broadband services before moving forward with Phase II, and that one opportunity to allocate additional funding is for the Commission to provide wireless carriers with access to Connect America Fund Phase I support left unclaimed by price cap carriers.

Delaying Phase II.—The record reflects considerable agreement on three main points raised by U.S. Cellular in its Comments: First, not enough time has elapsed since the completion of the Phase I reverse auction to provide the Commission with any meaningful data regarding the results of the auction and the utilization of Phase I funding.

Second, the Commission should delay implementation of Phase II for a sufficient time to enable the Commission to make a data-driven determination of whether to use a single-winner reverse auction or a wireless broadband cost model as the support disbursement mechanism for Phase II. And, third, delaying Phase II would also provide the Commission with time to develop a more detailed cost model, seek comment on that model, and make an informed determination of whether an auction or a cost model would better serve the Commission’s Phase II goals.

Service Area Eligibility.—Several commenters criticize the use of Mozaik Solutions data in connection with determining service area eligibility, explaining that the data is unreliable and tends to overstate broadband coverage. U.S. Cellular argues that the Commission should either take the time necessary to develop a better data source, or, at a minimum, establish an effective carrier challenge process to safeguard against inaccuracies in the Mosaik data.

Parties support U.S. Cellular’s argument that the Commission should use a proportional method to determine service area eligibility because the centroid method proposed by the Commission would overstate coverage and inappropriately reduce the number of service areas eligible for support. Most commenters also agree with U.S. Cellular that road miles should be used as the sole basis for calculating the number of units in unserved areas. While a number of parties propose various criteria for prioritizing areas eligible for Phase II support, U.S. Cellular reiterates its position that prioritization would be unnecessary if the Commission acts to provide a sufficient level of Phase II funding.

Term of Support; Modifying Requirements.—There is wide support in the record for a 10-year term for Phase II support. Most commenters also agree that the Commission either should refrain from increasing public interest obligations and performance metrics during the term of support, or, at a minimum, should specify, and adopt a schedule for, such increased requirements prior to conducting a Phase II reverse auction. U.S. Cellular criticizes the latter approach, since it would be difficult for the Commission to project with any precision reasonable and necessary future increases in requirements.

Other Issues.

- U.S. Cellular opposes suggestions that facilities-based Lifeline-only ETCs should be treated as eligible for Phase II support, that the Commission should permit non-ETC carriers participate in a Phase II reverse auction, and then utilize a streamlined post-auction process to designate winners as ETCs, and that carriers with pending ETC designation petitions should be eligible to participate in a Phase II reverse auction.

- Numerous comments support U.S. Cellular’s view that imposition of an irrevocable standby letter of credit on Phase II support recipients would be both unduly burdensome and unnecessary. The Commission should instead rely upon existing enforcement mechanisms to ensure compliance with Phase II requirements.

- U.S. Cellular opposes the adoption of any burdensome reporting or data collection requirements applicable to Phase II support recipients, favoring instead a suggestion made in the record that the Commission or the Universal Service Administrative Company could require specific information from individual support recipients as necessary.

- The Commission should consider exploring a proposal made in the record that for the establishment of a “safety net” for wireless competitive ETCs that currently receive high-cost

support, but whose continued provision of service could be disrupted or terminated if they are not successful in securing the receipt of any Phase II support.

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United States Cellular Corporation (“U.S. Cellular”), by counsel, hereby submits these Reply Comments, pursuant to the Public Notice issued by the Wireless Telecommunications Bureau and the Wireline Competition Bureau (collectively, the “Bureaus”) in the above-captioned proceeding.¹

I. INTRODUCTION.

The implementation of Mobility Fund Phase II boils down to two key issues: time and money. The record in this proceeding provides convincing evidence that the Commission’s decisions regarding whether to provide enough of both will determine the success or failure of Phase II in enabling the deployment and operation of mobile voice and broadband networks across rural America.

¹ *Further Inquiry into Issues Related to Mobility Fund Phase II*, WC Docket No. 10-90, WT Docket No. 10-208, FCC Public Notice, rel. Nov. 27, 2012, 77 Fed. Reg. 73586 (Dec. 11, 2012) (“*Public Notice*”). The due date for reply comments regarding the *Public Notice* is January 7, 2013.

The record again draws attention to the fact that the Commission has chosen to reduce ongoing high-cost support available to wireless eligible telecommunications carriers (“ETCs”) by more than 50 percent while boosting support to incumbent carriers, even as evidence continues to show that consumers are steadily abandoning wireline carriers and increasingly relying on wireless services. The Commission’s budgetary decisions seriously imperil its stated goals for the deployment of mobile broadband service in rural and high-cost areas throughout the Nation.

Commenters point to one step the Commission can take to begin addressing the underfunding of the Mobility Fund. Price cap carriers have chosen to leave \$185 million in Connect America Fund (“CAF”) Phase I support on the table, giving the Commission the opportunity to redirect this funding for use in the deployment and operation of mobile broadband networks.

The adverse effects of the Commission’s drastic reduction in funding for mobile voice and broadband services would be compounded if the Commission chooses to rush forward with the implementation of Mobility Fund Phase II. The Commission presently lacks a sufficient data-driven basis for making key decisions regarding the disbursement mechanism that should be used and the ground rules and requirements that should apply.

The Commission’s use of a single-winner reverse auction for Mobility Fund Phase I provides it with the opportunity to gather data regarding the impact of this mechanism and to compare its merits against those of a more fully developed cost model proposal. Commenters explain that taking these steps before making a decision regarding a Phase II disbursement mechanism should be an obvious path for the Commission, given its commitment to building its policy decisions on a foundation of robust data and deliberative analysis. Commenters therefore urge the Commission to delay its implementation of Phase II until data regarding the results of the Phase I single-winner reverse auction can be collected and assessed, and until the Commission has taken

the time necessary to provide interested parties with further guidance concerning the components and operation of a mobile broadband cost model.

II. THERE IS AGREEMENT IN THE RECORD THAT INSUFFICIENT FUNDING FOR MOBILITY FUND PHASE II JEOPARDIZES THE COMMISSION'S MOBILE BROADBAND GOALS.

Several commenters reinforce U.S. Cellular's view that the Commission made a critical mistake in deciding to significantly cut back universal service support for mobile voice and broadband services, but that the Commission has opportunities to correct its error and provide the resources necessary to promote the Commission's goal of mobile broadband deployment throughout unserved rural and high-cost areas.

A. The Commission Should Correct Its Decision To Substantially Reduce Support Available to Wireless Competitive ETCs.

U.S. Cellular argues in its Comments that the Mobility Fund lacks the funding needed to provide rural citizens with access to supported services that are reasonably comparable to those available in urban areas,² and that this funding shortfall is hampering the Commission's objective of ensuring the availability of mobile broadband and high quality voice services in areas where such services would not otherwise be available.³ There is strong support for these views in the record, with several commenters objecting to the Commission's decision to reduce support for mobile broadband.

Competitive Carriers Association ("CCA"), for example, explains that, "[a]lthough wireless providers received well over \$1 billion in support in 2011, and despite skyrocketing growth

² U.S. Cellular Comments at 2. Unless otherwise noted, all references to comments in these Reply Comments are to those filed in response to the *Public Notice*.

³ *Id.* at 2-3.

in the demand for wireless services (while rural wireline connections plummet),”⁴ the *CAF Order*⁵ limited Mobility Fund Phase II outlays to \$500 million annually. While slashing funding for wireless ETCs, the Commission “significantly increased the funding available to incumbent local exchange carriers[,] giving price cap carriers an exclusive option to receive \$1.8 billion in annual funding . . . (on top of the \$2 billion-plus available to rate-of-return carriers).”⁶

The record emphasizes the fact that these reductions have consequences. NTCH, Inc. (“NTCH”), explains, for example, that “wireless carriers as a rule can deliver broadband service to currently unserved areas (which now tend to be rural areas rather than densely concentrated urban areas where wireline carrier have an efficiency edge) much more economically than wireline carriers.”⁷ The budget reductions the Commission chose to implement in the *CAF Order*

⁴ CCA Comments at 1-2. Universal Service for America Coalition (“USA Coalition”) explains that 85 percent of Americans have cell phones and 45 percent have smart phones. “[I]n light of the tremendous importance of wireless services for consumers, the Act requires the Commission’s policies to follow the lead of consumers in ensuring that the benefits of competitive wireless services are available throughout the nation.” USA Coalition Comments at 2.

⁵ *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, 26 FCC Rcd 17663 (2011) (“*CAF Order*” and “*CAF FNPRM*”), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 18, 2011) (and consolidated cases).

⁶ CCA Comments at 3 (emphasis in original) (footnote omitted). CCA explains that funding for wireless carriers was reduced by the *CAF Order* 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.” *Id.* at 3 n.5.

⁷ NTCH Comments at 1. *Accord* CCA Comments at 4-5.

handicap the Commission's ability to "take advantage of that natural efficiency in shaping the most economical and expeditious plan to get broadband to the public."⁸

While U.S. Cellular recognizes NTCH's point that the Commission "must be a prudent steward of public funds,"⁹ U.S. Cellular urges the Commission to consider USA Coalition's assessment that "with such a small fund size and the Mobility Fund's proposed prioritization scheme, it is likely that the program would provide ongoing operational support to only a handful of the locations where support is needed, let alone, continuing to support the build-out of truly unserved areas."¹⁰ Commenters agree with U.S. Cellular's assessment that the Remote Areas Fund "would not be a plausible complement to an underfunded Mobility Fund Phase II that disburses support in a manner that freezes out higher cost areas."¹¹

Moreover, the Commission's tentative conclusion that areas eligible for Mobility Fund Phase I support will also be eligible for Mobility Fund Phase II support¹² will steer significant funding into the lowest-cost eligible areas. With such a small fund size, many areas that are rural, but not remote, will be denied support needed to accelerate investment. The relatively low number of eligible road miles covered by the \$300 million set aside in Auction 901 evidences the

⁸ NTCH Comments at 1. *See* CCA Comments at 3 n.4 (pointing out that the Commission's decision to cut more than \$1 billion in funding for deployment of mobile wireless services "will result in significant service reductions that will negatively impact public safety and economic development in rural areas").

⁹ NTCH Comments at 1. NTCH observes that the Commission should rely "on a combination of market forces, licensing policy, and a broad competitive bidding field to obtain the desired results at the lowest cost." *Id.*

¹⁰ USA Coalition Comments at 3 (footnote omitted). *See* Section IV.D., *infra*, for a discussion of the prioritization of service areas eligible for Mobility Fund Phase II support.

¹¹ U.S. Cellular Comments at 14 n.47. *See* Alaska Rural Coalition ("ARC") Comments at 13-14, 17; Blooston Rural Carriers ("Blooston") Comments at 8.

¹² *CAF FNPRM*, 26 FCC Rcd at 18070 (para. 1124 n.2247).

need for substantial additional funding to provide additional rural areas with high-quality coverage and service.

U.S. Cellular finds disconcerting the incongruous juxtaposition of the Commission's radical reduction of support for mobile broadband services (without any credible explanation for its action¹³) with its declamation that "promoting the universal availability of [mobile voice and broadband] services is a vital component of the Commission's universal service mission"¹⁴ Even more surprising is the fact that the Commission has adopted a budget for mobile broadband deployment that is demonstrably inadequate to advance President Obama's goal of achieving virtually ubiquitous wireless broadband coverage.¹⁵ As discussed in the following section, the record supports the Commission's changing direction and taking steps to back up its words with additional funding.

B. Repurposing Unclaimed CAF Phase I Support for Use by Wireless ETCs Would Promote the Commission's Broadband Deployment Goals.

U.S. Cellular indicates in its Comments that the Commission could partially rectify its decision to limit Mobility Fund Phase II support by repurposing \$185 million in unclaimed CAF Phase I support¹⁶ to Mobility Fund Phase II or by taking other steps to open up any 2013 CAF

¹³ See U.S. Cellular Comments at 4 (citing Uncited Wireless Carrier Universal Service Fund Principal Brief at 42, *In re: FCC 11-161*, No. 11-9900 (10th Cir. Oct. 23, 2012) (citing *Qwest Comm. Int'l Inc. v. FCC*, 398 F.3d 1222, 1237 (10th Cir. 2005))).

¹⁴ *CAF Order*, 26 FCC Rcd at 17674 (para. 28).

¹⁵ President Barack Obama, Remarks by the President on the National Wireless Initiative in Marquette, Michigan (Feb. 10, 2011) at 8, accessed at <http://www.whitehouse.gov/the-press-office/2011/02/10/remarks-president-national-wireless-initiative-marquette-michigan>.

¹⁶ See *Connect America Fund*, WC Docket No. 10-90, Further Notice of Proposed Rulemaking, 27 FCC Rcd 14566, 14566 (para. 2) (2012) ("*CAF Phase I FNPRM*"). The Commission neglected to seek any comment in the *CAF Phase I FNPRM* on the option of shifting unclaimed CAF Phase I support to the Mobility Fund or otherwise making such funding available for the deployment of mobile broadband networks. See USA Coalition Comments at 4 (footnote omitted) (noting that "the Commission's recent FNPRM regarding the use of unclaimed CAF Funds demonstrates that the Commission stubbornly con-

Phase I support distributions to other carriers in addition to price cap carriers.¹⁷ There is record support for the Commission’s taking such action.

U.S. Cellular agrees with CCA’s general observation that the price cap carriers’ refusal to claim more than half of the available CAF Phase I funding not only stands in sharp contrast to wireless carriers’ full utilization of Mobility Fund Phase I support, but also bolsters CCA’s argument “that [CAF Phase I] funding can be more efficiently and effectively be used by wireless providers.”¹⁸ NTCH agrees with this argument, suggesting that the Commission “should move to a market-based system for achieving its broadband goals”¹⁹ now that so many price cap carriers have passed on “a full opportunity to receive CAF [Phase I] funds on a preferred, sole source, no-bid basis”²⁰

NTCH expresses the jaundiced but understandable view that, in the *CAF Phase I FNPRM*, “[i]t’s as though the Commission is deviating from its original intent to expand broadband coverage to unserved areas simply in order to be able to induce price cap carriers to take more of the money off the Commission’s hands.”²¹ It is indeed disappointing that the Commission’s proposals in the *CAF Phase I FNPRM* reflect a blinkered approach in which CAF Phase I support is treated as tantamount to an entitlement for price cap carriers, and the Commission is

tinues to refuse to support wireless services at a level that reflects their importance. The Commission should direct additional funding towards the deployment of wireless services in rural areas.”).

¹⁷ U.S. Cellular Comments at 5-6.

¹⁸ CCA Comments at 5. CCA has “called on the Commission to reduce the amounts earmarked for ILECs and commensurately increase the support available to wireless ETCs [and has] proposed that the Commission make the \$185 million in foregone [CAF] Phase I support available to wireless ETCs” Ex Parte Letter from Steven K. Berry, President and CEO, and Rebecca Murphy Thompson, General Counsel, CCA, to Julius Genachowski, Chairman, FCC, WC Docket No. 10-90, *et al.*, filed Oct. 31, 2012, at 3.

¹⁹ NTCH Comments at 2.

²⁰ *Id.*

²¹ *Id.*

intent upon proposing to reshuffle its eligibility and other criteria to better accommodate the incumbent carriers' preferences. U.S. Cellular urges the Commission to consider a more expansive policy, geared to enabling wireless ETCs to utilize the unclaimed CAF Phase I support for purposes of pursuing the Commission's goal of promoting the universal availability of mobile voice and broadband services.²²

III. NUMEROUS COMMENTERS AGREE THAT THE COMMISSION SHOULD DELAY THE IMPLEMENTATION OF MOBILITY FUND PHASE II.

In its Comments, U.S. Cellular presented the case for its view that more time is needed to enable the Commission to reach an informed judgment concerning whether the results of the Mobility Fund Phase I reverse auction can advance the analysis of whether to utilize a reverse auction mechanism to disburse Phase II support.²³ AT&T has embraced the same position, "caution[ing] the Commission not to rush to finalize the permanent Mobility Fund rules but, rather, to consider and incorporate any lessons learned from the Phase I auction."²⁴

While U.S. Cellular understands the Commission's enthusiasm for marching ahead with the transformation of its universal service regime, U.S. Cellular is nonetheless convinced that there is no sound policy basis for pressing ahead with a launch of Mobility Fund Phase II²⁵ with-

²² In addition to addressing unclaimed CAF Phase I support, the Commission must also decide how to repurpose Mobility Fund Phase I support returned to the Commission by winning bidders in Auction 901. U.S. Cellular has previously suggested that the Commission should use any such returned funds "to fulfill bids in Auction 901 that were not awarded." Ex Parte Letter from David A. LaFuria, Counsel for U.S. Cellular, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-90, *et al.*, filed Dec. 18, 2012, at 1. Using the returned funds in this manner would have the advantage of facilitating their immediate use to further the objectives of Phase I, namely, "to immediately accelerate deployment of networks for mobile voice and broadband services in unserved areas." *CAF Order*, 26 FCC Rcd at 17675 (para. 28).

²³ U.S. Cellular Comments at 7-8.

²⁴ AT&T Comments at 1 (footnote omitted).

²⁵ U.S. Cellular has also suggested that the Commission, before adopting any rules for Mobility Fund Phase II, should await resolution by the Tenth Circuit Court of Appeals of the issue of whether the Com-

out gathering and reviewing Phase I implementation data. As U.S. Cellular discusses in the following sections, the record in this proceeding lends strong support for its view.²⁶

As the Commission proceeds with its Mobility Fund Phase II rulemaking, there is also reason to doubt whether it intends to make any serious effort to examine the results of Phase I before adopting rules for Phase II, notwithstanding the convincing case in the record for doing so. CCA, for example, indicates that “[t]he *Public Notice* appears to assume that several key issues on which the Commission sought comment in the [CAF] *FNPRM* have already been resolved, such as the use of auctions rather than a forward-looking cost model to distribute Phase II

mission has jurisdiction and statutory authority to adopt a single-winner reverse auction mechanism. U.S. Cellular Comments at 12.

²⁶ Before turning to its discussion of the record support for a delayed implementation of Mobility Fund Phase II, U.S. Cellular responds to a suggestion advanced by NTCH regarding the timing of Phase II implementation. Specifically, NTCH argues that the Commission should delay any Phase II reverse auction until at least the fall of 2013, and then assess what areas remain unserved in the wake of the first phase of broadband build-out by 700 MHz A and B block licensees. NTCH Comments at 6. NTCH contends that “it is very likely that the substantial service requirements associated with these licenses will satisfy to a very significant degree the need for broadband access in unserved areas[.]” *id.* at 5, and concludes that, “[i]f the licensing process is causing a service void to be filled, there is no need to waste public money to duplicate that service.” *Id.* at 6.

U.S. Cellular disagrees with NTCH’s suggestion that Mobility Fund Phase II should be delayed to await the results of the 700 MHz build-out. The Commission refused to impose any broadband speed targets or other requirements as conditions on AWS-3 licenses. *See id.* at 5. In the absence of any such requirements, deployment actions taken by 700 MHz licensees cannot be relied upon to deliver speeds and provide performance consistent with metrics the Commission has proposed for Phase II. On the other hand, the proposed Phase II requirements are directly aimed at ensuring that support recipients provide consumers with access to affordable broadband service comparable to service available in urban areas. In addition, it would be imprudent to rely on 700 MHz licensees to take timely action to deploy and sustain 4G broadband service in high-cost unserved areas, especially since the Commission has determined that these areas require Phase II support because there is no business case to bring broadband to these areas through the use of private investment.

support.”²⁷ The record in response to the *Public Notice*—as well as comments in previous rounds of this proceeding²⁸—demonstrate that the Commission should keep an open mind.

A. The Commission Should Allow for Sufficient Time To Evaluate the Results of the Mobility Fund Phase I Reverse Auction.

U.S. Cellular explains in its Comments that, over the course of the Commission’s various universal service reform rulemaking proceedings, considerable concern has been raised about the utility of a single-winner reverse auction mechanism in advancing the Commission’s mobile broadband deployment goals. U.S. Cellular concludes that, since it is difficult to evaluate the merits of these concerns in the abstract, the Commission—if it is committed to using Mobility Fund Phase I as a laboratory for evaluating the Commission’s support disbursement options for Phase II—should allow sufficient time for the accumulation of probative data concerning the implementation and operation of Phase I.²⁹

ARC pinpoints why the Commission’s interest in taking Mobility Fund Phase I results into account is important, and why it is even more important to allow sufficient time for this evaluative process to proceed:

Thus far, only the auction portion of Phase I has actually occurred. There have been no buildouts by carriers using the funds awarded during the auction, and the Commission *has yet to gather any data* on whether or not the funds awarded have led to substantially improved end-user service, or even to carriers’ completion of the Commission’s service milestones. Unlike the one-time nature of Phase I support, Phase II support represents an ongoing, long-term commitment of significant amounts of public funds. The ARC believes it would be far more prudent to delay full commencement of Phase II until the Commission has had a meaningful op-

²⁷ CCA Comments at 1.

²⁸ See, e.g., CTIA–The Wireless Association® (“CTIA”) Comments, WC Docket No. 10-90, *et al.*, filed Jan. 18, 2012, at 4 (explaining that final decisions “on the appropriate structure of Phase II should be deferred until both the Commission and affected stakeholders have the opportunity to evaluate the Phase I auction mechanism”); U.S. Cellular Comments, WC Docket No. 10-90, *et al.*, filed Jan. 18, 2012, at 6-8.

²⁹ U.S. Cellular Comments at 8-11.

portunity to construct Phase II rules based on the lessons from Phase I's implementation. At this point the Commission does not know if the money awarded in Phase I will deliver the services required.³⁰

A critical issue presented by Phase I is whether a single-winner reverse auction advances the Commission's policy goals for mobile broadband deployment as well as the pro-competitive policies of the Communications Act of 1934 ("Act").³¹ There are strong arguments in the record that using the Phase I reverse auction mechanism for Phase II will not serve the Commission's mobile broadband policies,³² nor will it promote competition.³³ Rather than gamble that these analyses are incorrect, it would be more prudent for the Commission to examine these arguments and engage in its own empirical analysis of whether its deployment of a single-winner reverse auction mechanism has harmed consumers and stifled competition. It is frankly hard to imagine

³⁰ ARC Comments at 3 (emphasis added).

³¹ USF support mechanisms, in order to comply with the Act, must not only be sufficient to preserve and advance universal service, but also must be competitively neutral. *See Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 616 (5th Cir. 2000) (emphasis added) (holding that "[t]he [USF funding] program must treat all market participants equally—for example, subsidies must be portable—so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers. . . . [T]his principle is made necessary not only by the economic realities of competitive markets but also by statute.").

³² *See, e.g.*, USA Coalition at 4-5 (explaining that "the supported provider would have little to no incentive to become more efficient, upgrade services, or provide new services over time, which in turn can harm or delay economic activity within that area. Consequently, consumers would suffer, and continued support would likely be necessary in the area indefinitely.").

³³ *Id.* at 4 (pointing out that, "if market conditions in an area require universal service support, limiting subsidies to a single provider further increases market entry barriers and insulates the subsidized provider from the threat of competitive entry. These barriers will persist even if market conditions change to otherwise attract additional entrants."). U.S. Cellular supports CCA's argument for avoiding this negative outcome if the Commission were to select a reverse auction mechanism for Phase II. Specifically, CCA explains that, "[p]articularly 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." CCA Comments at 7.

that the Commission would be willing to tie up billions of dollars in Mobility Fund support for 10 years³⁴ without having arrived at a data-driven answer to these questions.³⁵

The Phase I reverse auction also presents an additional critical issue: the advisability of using a bidding mechanism in which “[c]arriers competed against others across the country, and winners were chosen based on the lowest cost-per-mile bids to extend coverage to unserved roads.”³⁶ U.S. Cellular has criticized this approach, explaining that “compar[ing] bids made by reverse auction participants across the entire country would . . . ensure that consumers in areas with higher costs are systematically shunted to the end of the line for Phase II support.”³⁷

General Communications, Inc. (“GCI”), has illustrated the practical consequences of this nationwide bidding approach for consumers in Alaska. Universal service support would essentially be withdrawn from Alaska “if mobile broadband unserved areas in Remote Alaska must bid in competition with unserved mobile broadband areas in the rest of the country.”³⁸ GCI explains that “[t]he high costs of backhaul to areas that are not served by fiber networks, combined with low population and few roads, will likely make Remote Alaska uncompetitive [in bidding

³⁴ *CAF FNPRM*, 26 FCC Rcd at 18074 (para. 1138).

³⁵ In focusing on the issue of competition, USA Coalition advises the Commission that, “[r]ather than double-down on this strategy [of a single-winner reverse auction], which seems destined to systematically dismantle competition that currently exists in many places in rural America, the Commission should ensure that Phase II of the Mobility Fund facilitates competition or, at a minimum, the possibility of future competitive entry.” USA Coalition Comments at 5. ARC also explains a practical, and adverse, consequence of the Commission’s single-winner strategy, arguing that “GSM customers cannot utilize the CDMA network nor can CDMA customers use the GSM network. Limiting support to one wireless network that deploys a particular technology will very likely create only one service choice for customers, and will deprive customers that travel to remote Alaska locations of vital roaming capabilities.” ARC Comments at 10.

³⁶ *FCC Announces Winners of America’s First “Mobility Fund” Auction: Up to 83,000 New U.S. Road Miles on Which Millions of Americans Live, Work, or Travel Will Gain Access to Mobile Internet within 3 Years*, News Release, rel. Oct. 3, 2012, at 2 (quoted in U.S. Cellular Comments at 12-13).

³⁷ U.S. Cellular Comments at 14.

³⁸ GCI Comments at 3.

for Phase II support], as the Mobility Fund Phase I auction results showed.”³⁹ GCI’s observations, in U.S. Cellular’s view, are relevant for the entire country.

Given what is at stake for rural consumers who seek access to advanced mobile broadband networks, the Commission should take the time necessary to examine GCI’s conclusions regarding the impact of the use of a nationwide bidding mechanism in Phase I, and should also gather data regarding the impact of the mechanism in other States. If the Commission decides to use a single-winner reverse auction mechanism for Phase II, and adopts the nationwide bidding mechanism without examining arguments in the record and accumulated data regarding the effect of this mechanism on the Commission’s broadband policies, it will run the risk of depriving consumers in higher cost areas of the benefits of Phase II support.

B. Delaying Implementation of Mobility Fund Phase II Would Enable the Commission To Develop More Fully a Proposal for a Forward-Looking Mobile Broadband Cost Model.

The Commission, in addition to proposing the use of a single-winner reverse auction for Mobility Fund Phase II,⁴⁰ has endeavored “to develop a more detailed record” regarding the possible use of a forward looking economic model of costs and revenues of mobile wireless services.⁴¹ U.S. Cellular has suggested that the Commission, before making any decisions regarding a disbursement mechanism for Phase II, should to a further step by “provid[ing] interested parties with specific guidance regarding the components of a cost model that the Commission would

³⁹ *Id.*

⁴⁰ *CAF FNPRM*, 26 FCC Rcd at 18070 (para. 1122).

⁴¹ *Id.* at 18082 (para. 1175).

tentatively consider workable for Phase II, and the framework in which this model would be used”⁴² Other parties agree with this suggestion.

CCA maintains, for example, that the case for a mobile broadband cost model is as strong as the rationale for using a wireline cost model in the context of CAF support,⁴³ and urges the Bureaus not to limit their focus to auction-related proposals as they develop options for the disbursement of Phase II support,⁴⁴ but instead “to pursue development of a wireless cost model for Phase II of the Mobility Fund with equal vigor”⁴⁵

U.S. Cellular also agrees with CTIA that the failure of the Bureaus in the *Public Notice* to address issues raised in the *CAF FNPRM* regarding the options for using either a reverse auction or a cost model to disburse Phase II support leaves interested parties aiming in the dark. CTIA observes that “[t]he implementation of an ongoing support mechanism for mobility must be a comprehensive, orderly undertaking developed through a process that fully engages stakeholders[,]”⁴⁶ and “[u]ntil the Commission defines more elements of the larger framework of the support mechanism, it is difficult for commenters to fully comment on the more granular components of the mechanism.”⁴⁷

⁴² U.S. Cellular Comments at 11.

⁴³ The Commission decided to use a forward-looking cost estimate to disburse \$300 million in CAF Phase I incremental support’ *see CAF Order*, 26 FCC Rcd at 17715 (para. 134), and the Commission has taken a similar approach for CAF Phase II, giving incumbent price cap carriers a right of first refusal to receive Phase II support on an exclusive basis and awarded through the use of a cost model. *See id.* at 17727 (para. 166).

⁴⁴ CCA Comments at 6-7.

⁴⁵ *Id.* at 7.

⁴⁶ CTIA Comments at 3.

⁴⁷ *Id.*

CTIA concludes that “[w]hether a reverse auction or a cost model is used to distribute support will affect many of the issues raised in the Notice, including how support areas should be identified, the term of support, and the public interest obligations of recipients[,]”⁴⁸ and that “[c]ommenters are less likely to be able to provide adequate, informed, and targeted feedback on many important issues without knowing which approach the Commission will use.”⁴⁹

U.S. Cellular suggests that the best way to cure this problem is for the Commission to (1) develop and seek comment on the specific details of how a cost model would operate as a mechanism to disburse Phase II support; (2) make a final decision regarding the use of a reverse auction or a cost model; and (3) issue a further rulemaking notice making specific proposals on issues such as eligible service areas and public interest obligations, which would be informed by the Commission’s selection of a disbursement mechanism.

U.S. Cellular also agrees with AT&T that, if the Commission determines that a wireless cost model is the best mechanism for disbursing Phase II support, then the Commission may also conclude that “it will require some time to develop” such a cost model.⁵⁰ U.S. Cellular supports AT&T’s view that, in such circumstances, “there is no reason as a policy matter why the Commission could not issue another round of one-time support in 2013, following similar processes and rules as last September’s Mobility Fund Phase I auction”⁵¹ to enable the Commission to develop a Phase II cost model.

It is clear from the record that the Commission has not put itself in a position that would enable it to make a reasoned, informed, data-driven, and well-balanced determination of whether

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ AT&T Comments at 4.

to use a single-winner reverse auction or a wireless cost model as the Phase II disbursement mechanism. The Commission has advanced a detailed reverse auction proposal, but has failed to present any indication of its tentative views concerning the details and mechanics of how a wireless cost model could operate. As AT&T explains:

The [CAF] *FNPRM* sought comment on whether the Commission should . . . use a cost model for Mobility Fund Phase II . . . but the *Public Notice* is silent on this issue and appears to take it as a forgone conclusion that Phase II will be a near replica of Mobility Fund Phase I.⁵²

This impression that the Commission has prejudged the outcome regarding the selection of a Phase II disbursement mechanism could be erased by the Commission's taking the time necessary to develop and seek comment on a wireless cost model. The record supports such a step, and U.S. Cellular urges the Commission to take it.

IV. RULES DEFINING UNSERVED AREAS SHOULD EMPHASIZE THE PROMOTION OF 4G MOBILE BROADBAND DEPLOYMENT AND SHOULD GUARD AGAINST OVERSTATING EXISTING COVERAGE.

U.S. Cellular discusses in the following sections arguments presented by commenters suggesting that the Commission's policies for supporting the deployment of mobile voice and broadband services will be served best by the adoption of criteria for determining the eligibility of service areas that do not result in an overstatement of existing mobile broadband coverage. U.S. Cellular also demonstrates that the Commission should reject arguments that recipients of Mobility Fund Phase I support in a given service area should be ineligible for the receipt of Phase II support in the same area.

⁵¹ *Id.*

⁵² *Id.* at 3-4.

A. Census Blocks Served by an Unsubsidized Carrier Should Be Eligible for Mobility Fund Phase II Support Unless the Carrier Is Providing 4G Broadband Service.

In its Comments, U.S. Cellular renews its objection to the Commission’s proposal to treat a service area as ineligible for Mobility Fund Phase II support if the area is served by an unsubsidized carrier providing 3G mobile broadband service, pointing out that the proposal “would have the effect of closing the door on any near-term prospect of 4G deployment in some rural areas.”⁵³

U.S. Cellular agrees with CCA’s argument that the results of the Mobility Fund Phase I auction emphasize the need for the Commission to reverse course and pursue a more expansive definition of eligible service areas. CCA concludes that, “[b]ased on a comparison of the larger number of miles initially deemed eligible for support with the smaller number of miles for which support was actually awarded [in Phase I], CCA recommends the FCC make more areas eligible from the outset to expand access.”⁵⁴

AT&T, however, advocates a more restrictive approach, in which the Commission would adhere to its exclusion from eligibility of service areas where 3G service is available from an unsubsidized carrier, and would also define availability of an unsubsidized service not only based on the actual presence of such service, but also on whether the area is “covered by any wireless provider’s public commitment to deploy 3G or better service by some date certain”⁵⁵ AT&T assumes, incorrectly, that, in areas where public commitments to provide service have been made, “there plainly is a business case for private investment, and funding a competitor in this

⁵³ U.S. Cellular Comments at 17 (footnote omitted).

⁵⁴ CCA Comments at 8 (footnotes omitted).

⁵⁵ AT&T Comments at 5.

circumstance would ‘finance coverage that carriers would have provided in the near term without any subsidy’”⁵⁶ AT&T’s suggestion would move the Commission’s policies regarding eligible service areas even further in the wrong direction.

As U.S. Cellular discusses in its Comments, the Commission has been unreasonably exclusionary in proposing to bar a service area from receiving any Mobility Fund Phase II support if 3G service is available from an unsubsidized carrier, especially given the Commission’s proposed goal is to ensure that Phase II support recipients deploy “data services that meet or exceed a minimum bandwidth or data rate of 768 kbps downstream and 200 kbps upstream, consistent with the capabilities offered by representative 4G technologies.”⁵⁷

Notwithstanding its proposed policy to require Mobility Fund Phase II recipients to deploy 4G service, the Commission proposes a service area eligibility criterion that would close the door on delivering 4G service in some rural and high-cost areas: “As a proxy for identifying areas where private investment is likely to undertake to provide mobile broadband services, and thus, areas not eligible for support, we propose to use areas where an unsubsidized provider offers 3G or better service based upon the most recent available data prior to auction.”⁵⁸

The Commission provides no explanation for its tentative conclusion that the presence of unsubsidized 3G service is a reliable proxy for identifying areas where there is a business case for the deployment of 4G service. It is not obvious why the Commission apparently believes that a carrier’s deployment of 3G service in a rural or high-cost area can be taken as definitive evidence that there is a business case for the deployment of 4G service in that area, especially in the

⁵⁶ *Id.* at 5-6 (quoting *CAF Order*, 26 FCC Rcd at 17803 (para 410)).

⁵⁷ *CAF FNPRM*, 26 FCC Rcd at 18075 (para. 1142).

⁵⁸ *Id.* at 18070 (para. 1124).

near term. In order to pursue the statutory principle that service in rural areas should be reasonably comparable to service in urban areas,⁵⁹ the Commission should not use the presence of 3G service as a proxy, but instead should treat a service area as eligible for Phase II support unless 4G service from an unsubsidized carrier *is actually being offered* in the service area.

AT&T's proposal would make the Commission's approach to defining service area eligibility even more exclusionary. AT&T provides no support for its view that there is "plainly a business case" for unsubsidized deployment of 3G service if a carrier has made a "public commitment" to invest in deployment.⁶⁰ Public commitments—especially if they have not been made in response to regulatory requirements—can change. Factors can develop that lead carriers to conclude that, contrary to their earlier assessments, broadband deployment in a rural or high cost area cannot prudently be undertaken without universal service support.

If the Commission's goal is to bring the benefits of advanced mobile broadband to as many consumers as possible as quickly as possible—and not to restrict service area eligibility as a means of staying within pre-determined budget constraints—then the Commission should reject the speculative and unsupported approach proposed by AT&T for defining service area eligibility.

B. The Record Confirms That It Would Not Be Prudent for the Commission To Rely on Mosaik Solutions Data To Define Service Area Eligibility.

Several commenters explain that any use of Mosaik Solutions ("Mosaik") data in connection with Mobility Fund Phase II risks overstating existing mobile broadband coverage, to the detriment of consumers who would benefit from the availability of supported services in their

⁵⁹ 47 U.S.C. § 254(b)(3).

⁶⁰ AT&T Comments at 5-6.

areas. As U.S. Cellular also discusses in the following sections, if the Commission elects to rely on Mosaik data, then it also should provide the safeguard of an effective carrier challenge process.

1. The Commission Should Invest the Time and Resources Necessary to Develop a Substitute for Mosaik Data.

Considerable criticism has surrounded the Commission’s reliance on Mosaik data in connection with determining eligible areas for Mobility Fund support, leading U.S. Cellular to argue in its Comments that the Mosaik data is not sufficiently accurate to be used by the Commission and that this data could inherently create an upward bias in the identification of existing broadband coverage.⁶¹ The record supports U.S. Cellular’s concerns, illuminating a number of deficiencies associated with the Mosaik data.

USA Coalition summarizes the core problem: “Mosaik data is a synthesis of self-reported information provided by existing providers that may exaggerate the extent of existing coverage. With the threat of potential competition from a Mobility Fund applicant looming[,] carriers have [an] incentive to over-report coverage with the intent to eliminate support for a given area.”⁶²

Other commenters point to specific problems. For example, ARC indicates that the Mosaik data “needs to be updated continuously as service coverage across the nation changes, or it will quickly become obsolete[, but] the Commission has not put forth an ongoing plan to keep current the Mosaik data it proposes to use.”⁶³ ARC also notes that its members have encountered

⁶¹ U.S. Cellular Comments at 18.

⁶² USA Coalition Comments at 12 (footnote omitted). *See* Rural Telecommunications Group, Inc. (“RTG”), Comments at 4 (indicating that, “[w]hile the mobile wireless coverage maps produced by Mosaik are used for sales and marketing purposes, they cannot be relied on ‘as is’ by the Commission for purposes of making the vital decision of where to distribute Phase II ongoing support”).

⁶³ ARC Comments at 6.

difficulties in gaining access to Mosaik data, and these carriers “continue to question whether Mosaik’s server and interface for carriers will actually prove workable for the many carriers who will critically depend on its data for determining support.”⁶⁴ Blooston indicates that “[n]ot 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.”⁶⁵

Verizon and Verizon Wireless (“Verizon”), in seeking to defend the use of Mosaik data, represent that “many carriers work directly with Mosaik to help improve the data’s accuracy”⁶⁶ and that “[m]ost wireless carriers . . . self-publish considerable coverage data on their websites and elsewhere.”⁶⁷ These observations are not persuasive. While joint efforts of carriers and Mosaik to improve data accuracy are commendable, it remains the case that Mosaik’s current level of accuracy is not sufficient to make it a reliable basis upon which to determine service area eligibility. Moreover, Verizon fails to explain how wireless carriers’ self-publication of coverage data could somehow serve as a cure for the fundamental deficiencies of the Mosaik data.

In U.S. Cellular’s view, the record presents substantial and convincing confirmation that Mosaik data is simply not good enough to be used as a basis for determining eligible areas for Phase II support. While it may be possible that the deficiencies of the Mosaik data can be somewhat ameliorated through a well-designed and administered challenge process,⁶⁸ it would make more sense for the Commission to invest the time and resources necessary to devise the means of

⁶⁴ *Id.* at 6-7.

⁶⁵ Blooston Comments at 5.

⁶⁶ Verizon Comments at 1.

⁶⁷ *Id.* at 1-2.

⁶⁸ See the discussion in Section IV.B.2., *infra*.

gathering data in the first instance that ensures an accurate determination of eligibility and avoids the tendency of Mosaik data to overstate broadband coverage.⁶⁹

2. If the Commission Decides To Continue Relying on Mosaik Data, It Should Adopt a Workable and Effective Carrier Challenge Procedure.

If the Commission opts to rely on Mosaik data in connection with determining eligible service areas for Mobility Fund Phase II support, then U.S. Cellular agrees with CTIA that the Mosaik data should only be used “as a starting point”⁷⁰ There is support in the record for augmenting reliance on Mosaik data with a process that “allow[s] carriers . . . to challenge the Commission’s determination of whether an area is eligible for support, and allow[s] challenges or rebuttals to other carriers’ claims of service availability.”⁷¹

CTIA explains, however, that designing a workable and efficient challenge process brings its own challenges. CTIA notes that “the standards for such filings should be very clear, and the required showing should not be overly burdensome. A burdensome standard would dissuade carriers from identifying data errors, to the detriment of the accuracy of the process.”⁷² RTG cautions that any challenge process used in Phase II “must provide enough time for carriers to challenge the initial classification of an area as eligible or not eligible, and [to] respond to

⁶⁹ In this regard, U.S. Cellular agrees with the Mississippi Public Service Commission (“Mississippi PSC”) that the FCC should seek input from State commissions that are utilizing various programs to identify geographic areas lacking broadband coverage. *See* Mississippi PSC Comments at 1-2.

⁷⁰ CTIA Comments at 5.

⁷¹ RTG Comments at 3. RTG argues for such an approach “[b]ecause the Mosaik data will in many cases be flawed” *Id.* *See* ARC Comments at 7 (contending that, if the Commission uses the Mosaik data and database, “then it is important that the Commission institute some process by which carriers can challenge the factual accuracy of the Mosaik data”).

⁷² CTIA Comments at 6. *See* Verizon Comments at 2 (supporting the adoption of “clear standards for carrier filings to identify and correct errors in the Mosaik coverage information”).

challenges made by competing carriers concerning the availability and level of wireless services within a carrier's service area."⁷³

Verizon argues that "[t]he burden of proof for carriers that 'challenge' areas identified as unserved should not be excessive [because] there is no incentive for a carrier to claim to serve an area that it does not in fact serve."⁷⁴ U.S. Cellular disagrees with this claim. The burden of proof should be sufficient to produce a high likelihood that the data provided by challenging carriers is accurate and reliable because these carriers in fact do have an incentive to overstate their coverage areas to avoid competition from carriers seeking Mobility Fund Phase II support.⁷⁵

As a general matter, U.S. Cellular does not oppose using a clearly defined carrier challenge process as a means of attempting to offset, to some degree, the well documented deficiencies of the Mosaik data and database. U.S. Cellular stresses, however, that it continues to adhere to the view that these deficiencies provide further evidence of the drawbacks associated with the Commission's apparent intention to press ahead with Mobility Fund Phase II instead of taking sufficient time to develop and implement a more accurate method for determining service area eligibility. The Commission should not be satisfied with Mosaik data that tends to overstate coverage, since this leads to results that run counter to the Commission's goals for mobile broadband deployment.

C. A Proportional Method Should Be Used Instead of a Centroid Method To Determine Service Area Eligibility.

U.S. Cellular in its Comments argues against any reliance on the centroid method as a means for determining the eligibility of service areas for Mobility Fund Phase II support, ex-

⁷³ RTG Comments at 5. *Accord* USA Coalition Comments at 12.

⁷⁴ Verizon Comments at 3.

⁷⁵ *See* USA Coalition Comments at 12.

plaining that the method serves as a device for shrinking eligibility in order to keep Phase II disbursements within a pre-determined (and inadequate) budget.⁷⁶

The record presents strong support for abandoning the centroid method in favor of a proportional method. For example, ARC points out a fundamental flaw of the centroid method, explaining that:

The expense to carriers of providing service in a study area is based on the cost of service across the entire service area, not on the cost in any one location. The centroid method simply does not take into account the full expense of maintaining a comprehensive, interconnected network needed to provide service in a study area.⁷⁷

CTIA references anecdotal information that the centroid method produced anomalous results in Phase I, and suggests that the Commission should “evaluate carefully whether the centroid method was successful and should be retained in Phase II.”⁷⁸ In criticizing the centroid method, RTG points out that “when rural Americans live along rivers, around lakes, and along sea-side areas, census blocks are elongated leaving large areas that are unserved even when the middle of the census block is ‘served.’ Additionally, there are large census blocks that have the centroid covered, but leave large swaths uncovered.”⁷⁹

These various criticisms confirm U.S. Cellular’s view that the centroid method, regardless of whatever other Commission objectives it may serve, would operate as a systematic means of reducing the number of service areas deemed to be eligible for the receipt of Mobility Fund

⁷⁶ U.S. Cellular Comments at 19.

⁷⁷ ARC Comments at 8. ARC observes that “[d]etermining support for . . . large rural areas [in Alaska] based on the availability of service at a central location, where service may be much cheaper to provide and maintain, will prove disastrous for rural carriers and their customers.” *Id.* In U.S. Cellular’s view, this analysis holds true for other areas of the Nation where large census blocks contain substantial sparsely populated areas that lack broadband coverage.

⁷⁸ CTIA Comments at 5.

⁷⁹ RTG Comments at 6.

Phase II support. Another method should be used, and the record lends support for utilizing a proportional method that would treat a census block as eligible for support if a certain percentage of the census block (such as 40 percent or 50 percent) is unserved.⁸⁰

GCI, the lone commenter expressing support for the centroid method, suggests that it “generally makes sense” although it can produce anomalous results.⁸¹ As a solution to guard against these anomalies, at least in part, GCI suggests that, “if the largest community in the block is not in the centroid, the test for whether the block is served or unserved should use the largest community.”⁸² In U.S. Cellular’s view, “anomalies” are in fact the hallmark of the centroid method, and the partial solution suggested by GCI likely would not be effective. The extent of coverage in the largest community in a census block—regardless of whether that community is located at the centroid—would still risk a distorted view of the extent of coverage throughout the entire census block.

D. The Commission Should Take Steps To Avoid Any Need To Prioritize Areas Eligible for Mobility Fund Phase II Support.

In response to the Bureaus’ request for additional comment,⁸³ U.S. Cellular reiterates in its Comments its opposition to establishing any prioritization of Mobility Fund Phase II disbursements to eligible service areas, expressing its view that setting up what would amount to a triage system for allocating support would be an unnecessary and avoidable exercise if the Commission corrected its failure to allocate sufficient funding for Phase II.⁸⁴

⁸⁰ See ARC Comments at 9 (favoring the disbursement of Phase II support to areas with 50 percent or less coverage over an entire service area); RTG Comments at 6.

⁸¹ GCI Comments at 9.

⁸² *Id.*

⁸³ *Public Notice* at para. 11.

⁸⁴ U.S. Cellular Comments at 23-24.

Several parties have advocated the establishment of various Phase II funding priorities, and U.S. Cellular is cognizant of the fact that—given the severe funding restrictions that the Commission has deemed appropriate to impose on Phase II—stakeholders have an understandable interest in seeking a preferred position in line for the allocation of limited support.

But the numerous proposals for priorities⁸⁵ underscore U.S. Cellular’s point: A proliferation of reverse auction bidding priorities (if the Commission were to use a reverse auction as a Phase II disbursement mechanism) to target support to service areas based on different sets of criteria would only serve to paper over the underlying problem, namely, that the Commission has chosen to drastically underfund Phase II. Moreover, U.S. Cellular agrees with the Commission’s previous conclusions regarding the lack of any need for prioritizing support:

[W]e find that we will achieve the greatest amount of new coverage with Mobility Fund Phase I support if we impose no restrictions on the unserved areas that are eligible for the program, and allow all unserved areas to compete for funding on an equal footing. We conclude that making all unserved areas eligible for support and allowing the auction process to prioritize which areas can be served is most likely to achieve our goal of maximizing the number of units covered given the funds available.⁸⁶

The Commission’s finding does not address the fact that the number of units that are actually covered is largely dependent on the Commission’s funding decisions. As U.S. Cellular has indicated, and as the record has confirmed, the Commission’s limited budget for Phase II will have the effect of minimizing—not maximizing—the number of units covered.

⁸⁵ The proposed priorities include areas with 2G or less service (*see* ARC Comments at 11); areas with “low population density” (*see* Blooston Comments at 7-8); areas lacking access to the National Highway System (*see* ARC Comments at 12; GCI Comments at 9-10); a Separate Remote Alaska Mobility Fund (*see* GCI Comments at 3); areas with no broadband coverage (*see* Mississippi PSC Comments at 2; USA Coalition Comments at 9 (arguing that bidding credits should be used to provide coverage in areas where no 2G or 3G service is currently available)); and areas with high poverty levels (*see* ARC Comments at 12; Mississippi PSC Comments at 2).

⁸⁶ *CAF Order*, 26 FCC Rcd at 17790 (para. 357).

There would be no need for Mobility Fund Phase II disbursement priorities if the Commission were to choose simply to allocate enough support to enable sufficient deployment of 4G broadband throughout unserved areas. The Commission has a statutory mandate to “maximize the units covered,” and its funding decisions should give this mandate a greater priority.⁸⁷

It could be argued that the prioritization of Phase II support might also help to ameliorate the adverse effects of a nationwide bidding mechanism that requires carriers to compete against other carriers across the Nation, with winners chosen based on the lowest bids.⁸⁸ Such an argument, however, only highlights that any interest by the Commission in prioritizing support to eligible service areas⁸⁹ would reflect a predilection to view its Phase II policies through the wrong end of the looking glass. Rather than pursuing the prioritization of support to eligible service areas as a means of attempting to soften the adverse effects of underfunding and a nationwide bidding mechanism, the Commission should recognize that prioritization would be unnecessary if it takes action to provide sufficient funding for Phase II and to devise disbursement and bidding mechanisms that do not systematically leave higher-cost areas without any Phase II support.

E. The Commission Should Continue To Use Road Miles as the Basis for Calculating the Number of Units in Unserved Service Areas.

U.S. Cellular argues in its Comments that the Commission’s reliance on road miles for determining the number of bidding units and corresponding coverage requirements “is an effective means of extending mobile broadband services in rural areas.”⁹⁰ Several parties agree.

⁸⁷ See U.S. Cellular Comments at 5.

⁸⁸ The disadvantages of this bidding mechanism are discussed in Section III.A., *supra*.

⁸⁹ See *CAF NNPRM*, 26 FCC Rcd at 18073 (para. 1132) (seeking comment on whether the Commission should target areas for priority treatment); *Public Notice* at para. 11.

⁹⁰ U.S. Cellular Comments at 24.

RTG argues that “[t]he use of road miles is consistent with the characteristics and benefits of mobile wireless and reflects the Commission’s goal of extending coverage to areas where people live, work, and travel[,]”⁹¹ and CTIA observes that, given that the goal of the Mobility Fund “is to support the availability of voice and broadband services while consumers are mobile[,] [r]oad miles are the best proxy for the areas where consumers are likely to use their mobile devices,”⁹² and that “using road miles as, at minimum, an element in the bidding unit equation recognizes the importance of ensuring that mobile services are available to consumers where they live, travel, and work.”⁹³ GCI also supports continued use of road miles.⁹⁴

USA Coalition supports using a combination of total population and road miles to prioritize funding and compare competing bids. A potential approach, USA Coalition suggests, would be to weight population equally to road miles. USA Coalition argues that using this hybrid approach would be more likely to identify areas where support would have the greatest impact.⁹⁵

While U.S. Cellular agrees with USA Coalition’s argument that the Commission should use a method that is the most likely to identify areas where Mobility Fund Phase II support would have the best results, there is no reason to conclude that a hybrid approach combining population and road miles would serve this goal more effectively than reliance upon a road mile measurement as “the best proxy for the areas where consumers are likely to use their mobile devices”⁹⁶ In fact, the Commission specifically rejected the use of population for Mobility

⁹¹ RTG Comments at 12.

⁹² CTIA Comments at 6 (footnote omitted).

⁹³ *Id.*

⁹⁴ GCI Comments at 10.

⁹⁵ USA Coalition Comments at 8-9.

⁹⁶ CTIA Comments at 6.

Fund Phase I, selecting road miles instead, based in part on its finding that “requiring additional coverage of road miles more directly reflects the Mobility Fund’s goal of extending current generation *mobile* services”⁹⁷

ARC argues that the use of road miles is appropriate in most areas of the Nation, but “road miles are a completely inappropriate measure for Alaska.”⁹⁸ If the Commission decides to use road miles as a metric for the lower 48 States, then ARC urges “that it *must* create an exemption or alternative metric for Alaska and other remote areas without roads.”⁹⁹ U.S. Cellular tentatively does not oppose a separate metric for Alaska, but development of such a metric would require a rulemaking so that interested parties could comment on a Commission proposal.

V. PARTIES SUPPORT A TEN-YEAR TERM OF SUPPORT AND OPPOSE ANY EXPANSION OF PUBLIC INTEREST OBLIGATIONS DURING THAT TERM.

The record makes a strong case for a 10-year term of support for Mobility Fund Phase II, especially in light of factors that uniquely affect the provision of mobile broadband services in rural and high-cost areas. Several commenters also agree that it would not be productive for the Commission to build in a process for increasing public interest obligations and performance metrics over the course of the support term.

A. A Ten-Year Term of Support Will Accommodate Factors Affecting Mobile Broadband Deployment in Rural and High-Cost Areas.

Several commenters agree with U.S. Cellular’s position that the Commission should adopt a fixed term of 10 years for Mobility Fund Phase II support.¹⁰⁰ Parties favoring a 10-year

⁹⁷ *CAF Order*, 26 FCC Rcd at 17788-89 (para. 350) (emphasis in original).

⁹⁸ ARC Comments at 14.

⁹⁹ *Id.* (emphasis in original).

¹⁰⁰ U.S. Cellular Comments at 25.

term suggest that it would provide “the predictability and sustainability carriers need to make prudent network investments”¹⁰¹

AT&T proposes that a five-year term of support would be more appropriate, arguing that such a term would correlate better than a 10-year term with the rapid evolution of wireless technology.¹⁰² AT&T attempts to support its argument by noting that “it is very easy to imagine that a geographic area that is unserved and ‘uneconomic to serve’ in 2013 could become a vibrant and economically attractive suburban area within a time frame much shorter than ten years.”¹⁰³

U.S. Cellular opposes AT&T’s proposal, in part because, as ARC explains, “areas in the most need of the available support are likely to respond to dynamic changes slower than urban areas.”¹⁰⁴ The rapid evolution of wireless broadband technology generally manifests itself most directly in urban areas.¹⁰⁵ While U.S. Cellular advocates Commission policies geared to utilizing Mobility Fund support to promote the deployment of broadband services in rural areas that are comparable to those available in urban areas, U.S. Cellular nonetheless acknowledges ARC’s pragmatic observation that “rural and Remote Areas lack adequate population to make radical changes on a short time horizon.”¹⁰⁶ In light of this, ARC is persuasive in arguing that “[t]he public interest is best served by providing a longer term of support to create the best environment possible to extend the highest quality of service available to rural and Remote Areas.”¹⁰⁷

¹⁰¹ ARC Comments at 15. *Accord* RTG Comments at 7.

¹⁰² AT&T Comments at 10.

¹⁰³ *Id.* at 11.

¹⁰⁴ ARC Comments at 16.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* See RTG Comments at 7 (explaining that a 10-year term would coincide with rural carriers’ time-frames for planning and scheduling network upgrades and improvements, and would correlate with the

Finally, U.S. Cellular agrees with CTIA that the Commission must ensure that its public interest obligations and performance metrics are synchronized with the term of support it adopts for Mobility Fund Phase II. CTIA explains that “a shorter term of support may require a lower level of public interest obligations than would a longer term of support, since the recipient is receiving less support in total, and has less time to deploy new networks before investments would become stranded.”¹⁰⁸

B. Increasing Public Interest Obligations During the Mobility Fund Phase II Term of Support Would Be Unfair, Disruptive, and Counterproductive.

In its Comments, U.S. Cellular argues that the Commission should be cautious in deciding whether to establish a pre-determined timetable to alter public interest obligations during the Mobility Fund Phase II term of support¹⁰⁹ and that participants in a Phase II reverse auction would find it difficult to calculate bids that account for potential modifications in performance metrics during the term of support.¹¹⁰

Numerous parties agree with U.S. Cellular, building a strong record of opposition to any Commission policy to revise public interest obligations and performance metrics during the Mobility Fund Phase II term of support in order to subject funding recipients to more burdensome requirements. AT&T, for example, argues for a complete ban on any modification of public interest obligations or performance metrics during the term of support, contending that “no high-

way rural carriers account for and depreciate costs); *id.* at 9 (indicating that “[t]he estimated useful life of rural wireless networks is generally longer than for urban networks because the return on investment for rural networks is much longer than for urban networks”).

¹⁰⁸ CTIA Comments at 7. U.S. Cellular also agrees with CTIA’s observation that “a shorter term of support would require less rigorous (and therefore less cumbersome) accountability and oversight standards, since providers would face the scrutiny of another auction or application process more frequently, and the total amount of money at risk would be less.” *Id.* at 10.

¹⁰⁹ U.S. Cellular Comments at 20.

¹¹⁰ *Id.* at 21.

cost recipient should be subject to requirements that are undefined or not in effect as of the date when a carrier either is designated an eligible telecommunications carrier . . . or must elect whether to participate in the particular funding mechanism[.]”¹¹¹ and that “[i]mposing obligations retroactively could materially alter a provider’s business case that made its acceptance of high-cost support possible.”¹¹²

There is agreement in the record that it would be unfair for the Commission to increase public interest obligations and performance metrics unilaterally during the term of support,¹¹³ and that the prospect of such mid-course changes would introduce unpredictability and risk, increasing financing costs and making it more difficult to attract investment.¹¹⁴ In addition, Blooston agrees with U.S. Cellular’s analysis that changes to funding recipients’ obligations would unduly complicate the reverse auction bidding process:

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.¹¹⁵

U.S. Cellular agrees that, unless the Commission adjusted the level of support available to reflect mid-term increases in public interest obligations and performance metrics, the additional requirements would amount to unfunded mandates that would create the wrong incentives for reverse auction participants. As CTIA explains, “bidders need to know *in advance* what obliga-

¹¹¹ AT&T Comments at 12.

¹¹² *Id.* (footnote omitted). AT&T claims that adopting a five-year term of support is a better way to account for the need to modify metrics to address technology changes, *id.*, but U.S. Cellular disagrees with this assertion, for the reasons discussed in Section V.A., *supra*.

¹¹³ Blooston Comments at 10; RTG Comments at 11.

¹¹⁴ Blooston Comments at 10-11; AT&T Comments at 12.

¹¹⁵ Blooston Comments at 11. *See* RTG Comments at 11.

tions they are subject to in order to formulate meaningful bids.”¹¹⁶ CTIA also argues that “[c]lear obligations will also help ensure that the Commission gets the best price for the services provided, since participants are likely to bid more conservatively if the scope of their future obligations is at all uncertain.”¹¹⁷

CTIA suggests that the Commission could adopt requirements that “evolve over time”¹¹⁸ during a 10-year support term, so long as both initial requirements and future scheduled modifications are known to reverse auction bidders.¹¹⁹ U.S. Cellular is doubtful whether such an approach would be practical, since it could prove difficult for the Commission to anticipate, prior to the time it conducts a Phase II reverse auction, changes to public interest obligations and performance metrics that would be appropriate to impose at subsequent stages of the support term.

An approach suggested by RTG would be more practical. RTG proposes that any rule changes affecting public interest obligations or performance metrics should “go into effect only after the completion of the initial term of support.”¹²⁰ RTG argues that the Commission should initiate a rulemaking “to establish any new performance requirements at least three years prior to the end of the initial term so that carriers can plan and prepare for the next phase of support (*i.e.*, Mobility Fund Phase III).”¹²¹ This approach would ensure that reverse auction participants are able to formulate bids based on full knowledge of the requirements that will be in effect during

¹¹⁶ CTIA Comments at 8 (emphasis in original).

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 7-8.

¹¹⁹ *Id.* See Verizon Comments at 4 (arguing that, “if the obligations are to change during the term of support, the parameters and timing of any changes must be known to bidders at the outset, prior to the solicitation of bids in the auction”).

¹²⁰ RTG Comments at 7.

¹²¹ *Id.*

the support term, while also providing the Commission with the timely opportunity to account for technological changes and other relevant developments in prescribing requirements for the next support term.

VI. OTHER ISSUES.

A. Carrier Eligibility Requirements Should Be Equitable and Should Provide the Certainty Necessary To Ensure Prompt Deployment of Mobile Broad-band Networks.

For the reasons U.S. Cellular discusses in the following sections, the Commission should adhere to the requirement that a carrier must hold a full ETC designation for the receipt of high-cost support in order to be eligible to participate in a Mobility Fund Phase II auction or to otherwise receive Phase II funding.

1. Carriers with Facilities-Based Lifeline-Only ETC Designations Should Not Be Eligible for Mobility Fund Phase II Support.

NTCH argues that the Commission should make facilities-based Lifeline-only ETCs eligible for Mobility Fund Phase II support,¹²² or, alternatively, should permit carriers not designated as ETCs to participate in a Phase II reverse auction and then, if any such carriers are winning bidders, designate them as ETCs after the auction. U.S. Cellular opposes NTCH's proposals, for several reasons.

First, NTCH has not demonstrated any need for the extraordinary measures it is proposing. NTCH claims that, in Mobility Fund Phase I, the pool of possible funding recipients was restricted because potential applicants "could not realistically hope to get ETC status in the few months" between release of the *CAF Order* and the deadline for Phase I applications.¹²³ Contrary to NTCH's assertions, there was ample time in Phase I for carriers to obtain ETC designations

¹²² NTCH Comments at 6, 7-9.

for purposes of participating in the auction. Carolina West, for example, received such a designation in less than two months.¹²⁴ Its petition for ETC designation was filed on May 14, 2012, and was granted on July 3, 2012.¹²⁵

Similarly, the Commission is in a position to establish timetables that ensure the availability of sufficient time for ETC designation petitions to be reviewed and acted upon prior to the commencement of a Phase II reverse auction (if the Commission opts for an auction mechanism), or prior to determining eligibility and qualification for any funding disbursements through another mechanism.

Second, NTCH argues that a Phase II auction could itself constitute a determination that the winning carrier is best able to provide supported services in an eligible service area, and, “[s]ince the statute gives the Commission and the [State public utilities commission] no discretion to do anything but designate the carrier as an ETC,”¹²⁶ the Commission could simply grant ETC status at the same time it grants a carrier’s auction application, and a State commission “would have to grant” the winning applicant’s ETC petition.¹²⁷

¹²³ *Id.*

¹²⁴ See *Petitions for Designation as an Eligible Telecommunications Carrier for Purposes of Participation in Mobility Fund Phase I, Petition of Carolina West Wireless, Inc.*, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, Order, 27 FCC Rcd 7235 (WCB, WTB 2012). The petition was granted contingent upon the carrier’s becoming authorized to receive Phase I support. *Id.* at 7235 (para. 1).

¹²⁵ *Id.* at 7235 (para. 1 n.1). See *Petitions for Designation as an Eligible Telecommunications Carrier for Purposes of Participation in Mobility Fund Phase I, Petition of SI Wireless, LLC, for Designation as an Eligible Telecommunications Carrier in Tennessee*, WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, Order, 27 FCC Rcd 7218, 7218 (para. 1 n.1) (WCB, WTB 2012) (adopting on July 3, 2012, a petition for designation as an ETC filed on April 23, 2012).

¹²⁶ NTCH Petition at 8.

¹²⁷ *Id.*

U.S. Cellular disagrees with this analysis. The reverse auction process itself cannot serve as a determinant of whether the public interest would be served by extending Phase II support to an auction participant. Section 214(e)(2) of the Act specifies that a State commission must designate a carrier as an ETC only if doing so is “consistent with the public interest, convenience, and necessity[.]”¹²⁸ and the statute reserves to the State commission the authority to make this public interest finding. A reverse auction cannot create circumstances in which a State commission “would have to grant” an auction winner’s ETC application, since the auction cannot substitute for or usurp the process established in Section 214(e)(2) for making a public interest determination.

And, *third*, permitting Lifeline-only ETCs to participate in a Phase II reverse auction would neither be fair to auction applicants with full ETC designations to receive high-cost support, nor consistent with Commission policies. A Lifeline-only ETC designation is just that—a “*limited designation* as an ETC for the purpose of providing Lifeline services”¹²⁹ There is no basis for expanding this limited designation into a designation establishing eligibility to receive Phase II support. Such eligibility must be established through a separate proceeding and a separate designation.

The Commission has provided that “[a]pplicants for ETC designation must certify that they will comply with all service requirements *applicable to the support they receive*.”¹³⁰ Applicants for Lifeline-only ETC designations must demonstrate compliance *with Lifeline rules*, in-

¹²⁸ 47 U.S.C. § 214(e)(2).

¹²⁹ *Telecommunications Carriers Eligible for Universal Service Support, Petition of T-Mobile USA, Inc., for Designation as a Low-Income Eligible Telecommunications Carrier, Amended Petition of NTCH, Inc., for Designation as an Eligible Telecommunications Carrier in the States of North Carolina and Tennessee*, WC Docket No. 09-197, Order, 27 FCC Rcd 9495, 9495 (para. 1) (WCB 2012) (emphasis added).

¹³⁰ *Id.* at 9500 (para. 19) (emphasis added) (footnote omitted) (citing 47 C.F.R. § 54.202(a)(1)(i)).

cluding rules regarding consumer enrollment and certification of eligibility. In order to be eligible for high-cost support (disbursed pursuant to Mobility Fund Phase II or otherwise), the Commission or the relevant State commission must make a finding that the carrier involved has demonstrated a commitment to comply with rules applicable to the receipt of high-cost support. The Commission should require, as it did for Phase I, that this demonstration must occur in a designation proceeding, and must result in the granting of a designation petition, prior to a reverse auction.

2. Carriers with Pending ETC Designation Petitions Should Not Be Eligible To Participate in a Mobility Fund Phase II Reverse Auction.

Blooston argues that “[p]ending petitions for ETC designation with the relevant state commission should be sufficient to allow a carrier to participate in Phase II Mobility Fund auctions.”¹³¹ U.S. Cellular disagrees.

Requiring reverse auction applicants to hold current ETC designations for the relevant eligible service areas, as a prerequisite for participating in a Mobility Fund Phase II auction, is one means of ensuring that auction winners will be fully qualified and capable of utilizing Phase II support for its intended purposes.¹³² In addition, the Commission has found that permitting carriers with pending ETC petitions to participate in a reverse auction “would inject uncertainties as to eligibility that could interfere with speedy deployment of networks by those that are awarded support, or disrupt the Mobility Fund auction.”¹³³

¹³¹ Blooston Comments at 12.

¹³² See *CAF Order*, 26 FCC Rcd at 17799 (para. 392) (finding that “requiring that applicants be designated as ETCs prior to a Mobility Fund Phase I auction may help ensure that the pool of bidders is serious about seeking support and meeting the obligations that receipt of support would entail”).

¹³³ *Id.*

B. A Letter of Credit Requirement on Mobility Fund Phase II Support Recipients Is Not Necessary and Should Not Be Imposed.

The record provides substantial support for U.S. Cellular’s position that the Commission should not impose an irrevocable standby letter of credit (“LOC”) requirement in Mobility Fund Phase II.¹³⁴ Various parties explain that many carriers face difficulties in obtaining LOCs,¹³⁵ that the LOC requirement amounts to an insurmountable barrier to entry¹³⁶ as well as a barrier to participation in the Mobility Fund process,¹³⁷ that LOCs directly result in higher auction bids,¹³⁸ and that LOCs are unnecessary.¹³⁹ U.S. Cellular urges the Commission to refrain from imposing a LOC requirement on Phase II support recipients and to instead rely on enforcements mechanisms to ensure compliance with Phase II requirements.

¹³⁴ U.S. Cellular Comments at 25-26.

¹³⁵ ARC Comments at 18 (describing difficulties on obtaining LOCs and observing that, “[t]o the best of the ARC’s knowledge, the Rural Utility Service, a key lender to Alaska carriers, is not issuing LOCs”); Mescalero Apache Telecom, Inc. (“MATI”), Comments at 6 (explaining that, since MATI “does not have an ongoing business relationship with any of the approved banks, and financing in large part has been obtained from the Rural Utilities Service . . . , which is not an approved bank for purposes of the LOC requirement[,] . . . the LOC requirement is serving as a barrier to MATI successfully participating in the Mobility Fund Phase II process, and thus is potentially depriving the Mescalero Apache reservation with a service deemed by the Commission to be worthy of universal service support”).

¹³⁶ Blooston Comments at 13.

¹³⁷ MATI Comments at 5.

¹³⁸ CCA Comments at 8 (arguing that “[o]btaining individual letters requires a carrier to expend valuable time, money and other resources, which directly results in unnecessarily higher bids”).

¹³⁹ USA Coalition Comments at 16 (footnote omitted) (indicating that LOCs “are . . . of dubious value in light of the fact that repayment of funds received and substantial forfeitures apply to those parties that fail to meet their public interest obligations. Under Mobility Fund rules, a carrier that fails to meet [its] public interest obligations would face penalties in the amount of Mobility Fund support already received, plus a penalty of 10% of the total level support for which the carrier is eligible”).

C. The Commission Should Avoid Any Imposition of Burdensome Reporting or Data Collection Requirements on Mobility Fund Phase II Support Recipients.

U.S. Cellular disagrees with a suggestion made by the Mississippi PSC that Mobility Fund Phase II support recipients should be required to provide auditable information (including, *e.g.*, physical addresses of new equipment) as well as documentation that Phase II milestones have been met.¹⁴⁰ It should be sufficient, and certainly would be less burdensome and intrusive, for support recipients only to be required “to certify that they meet the minimum metrics for support.”¹⁴¹ U.S. Cellular supports USA Coalition’s suggestion that “[a]ny information not essential to the determination of whether support is being used appropriately should not be required to be submitted.”¹⁴²

The Commission or the Universal Service Administrative Company could require specific information from individual support recipients as circumstances may warrant,¹⁴³ but the Commission should refrain from imposing across-the-board documentation and reporting requirements on all Phase II funding recipients.

D. The Commission Should Consider Providing a “Safety Net” for Carriers Whose Provision of Service Could Be Disrupted or Terminated If They Do Not Receive Mobility Fund Phase II Support.

RTG points to an additional problem generated by the Commission’s failure to allocate a sufficient level of funding for Mobility Fund Phase II, which would be exacerbated if the Commission elects to use a single-winner reverse auction disbursement mechanism for Phase II support. Specifically, RTG explains that competitive ETCs that currently receive Universal Service

¹⁴⁰ See Mississippi PSC Comments at 3.

¹⁴¹ USA Coalition Comments at 17.

¹⁴² *Id.*

Fund support, but that are unsuccessful in winning support in a Phase II reverse auction, will be cut off from any continuing support when the Commission's phase-down of existing support is completed.

RTG explains that “[m]any RTG members have reported that they will have to turn off cell sites or even terminate service completely if they are unsuccessful in the Phase II auction. These carriers simply do not have enough voice and data traffic to support the cost of certain cell sites within their networks.”¹⁴⁴ RTG proposes that the Commission should “pre-determine” carriers that will risk reducing or terminating service, and provide them with “safety-net support” through the use of a cost model.¹⁴⁵

The best solution to the problem identified by RTG, as U.S. Cellular and other commenters have indicated, is for the Commission to lift its ill-considered and unjustifiable budget constraints on Mobility Fund Phase II support. In the absence of such action, U.S. Cellular sees some merit in the RTG proposal, but suggests that a further rulemaking would be necessary in which the Commission could seek comment on whether safety-net support should be established and how such a mechanism could be designed and implemented.

VII. CONCLUSION.

The record presents the Commission with compelling evidence and arguments that the Commission should make additional funding available for wireless ETCs and the Mobility Fund, and should delay implementation of Mobility Fund Phase II to enable evaluation of the results of

¹⁴³ *See id.* at 18.

¹⁴⁴ RTG Comments at 15.

¹⁴⁵ *Id.* at 15-16.

Phase I and consideration of a more fully developed cost model for possible use as a Phase II support disbursement mechanism.

Commenters also argue convincingly that the Commission should adopt service area eligibility criteria that avoid any overstatement of existing coverage, and that the Commission should carefully weigh the disadvantages of any attempt to increase public interest obligations and performance metrics during the Phase II term of support.

U.S. Cellular respectfully requests that the Commission give due consideration to this record, and to arguments on other issues supported by U.S. Cellular in these Reply Comments, as the Commission proceeds with its Mobility Fund Phase II rulemaking.

Respectfully submitted,

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