

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90

COMMENTS OF WINDSTREAM CORPORATION

Windstream Corporation, on behalf of its incumbent local exchange carrier (“ILEC”) affiliates (hereinafter “Windstream”), submits the following reply comments in response to the Wireline Competition Bureau (“Bureau”) Public Notice seeking further comment on issues regarding service obligations for Connect America Fund (“CAF”) Phase II and determining who is an unsubsidized competitor.¹

The Bureau has expressed its intention to use June 2012 State Broadband Initiative (SBI) data to assist in determining what areas are served with voice and broadband by an unsubsidized competitor and thus should be ineligible for CAF Phase II support.² However, various commenters—including cable companies—have raised significant doubts as to the accuracy of SBI data with respect to cable coverage.³

¹ Public Notice, “Wireline Competition Bureau Seeks Further Comment on Issues Regarding Service Obligations for Connect America Phase II and Determining Who is an Unsubsidized Competitor,” WC Docket No. 10-90, DA 13-284 (rel. Feb. 26, 2012) (*Public Notice*).

² *Id.* at ¶ 8.

³ *See, e.g.*, Comments of NTCA—The Rural Broadband Association, The National Exchange Carrier Association, Inc., The Eastern Rural Telecom Association, and the Western Telecommunications Alliance, WC Docket No. 10-90, at 5 (March 28, 2013) (discussing Time Warner Cable’s reporting methodology and how it is likely to have resulted in overstatement of coverage); Reply Comments of the Independent Telephone & Telecommunications Alliance, WC Docket No. 10-90, at 5 (March 4, 2013); Letter from Mary McManus, Comcast, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 2 (January 24, 2013) (indicating that Comcast’s coverage in more than 100,000 census blocks is misstated).

For its own service territories, Windstream is undertaking an extensive analysis of data that indicates the real-world presence of a wireline broadband competitor—aggregate records of the extent to which Windstream’s broadband customers have ported their voice telephone numbers to wireline competitors and, at the same time, disconnected their broadband service (hereinafter the “porting analysis”). This data captures situations in which a Windstream customer is likely to become a voice and broadband customer of another wireline provider in its pertinent area. The results of Windstream’s porting analysis, a portion of which is attached hereto, show that a significant percentage of census block groups incorporating census blocks that are listed on the latest National Broadband Map as served by a cable provider likely are not in fact so served. Windstream is developing and verifying similar data for its entire service area and will submit it as soon as possible.

In the interest of accuracy and efficiency, the Bureau should supplement the reported June 2012 SBI data, or whatever data set the Bureau plans to use as the baseline for a CAF Phase II challenge process, with the data from Windstream’s porting analysis and any similar analyses performed by incumbent local exchange carriers. In the alternative, within the context of a challenge process, a location that is shown—through Windstream’s porting analysis or similar analyses—as unserved by an unsubsidized competitor should be presumed eligible for CAF Phase II, and such a presumption should be rebuttable only through actual billing records or engineering evidence demonstrating that the unsubsidized competitor is offering service in that location.

I. WINDSTREAM’S ANALYSIS OF CUSTOMER CHURN AND NUMBER PORTING RECORDS INDICATES EXTENSIVE OVERSTATEMENT OF CABLE COVERAGE IN WINDSTREAM’S SERVICE TERRITORIES.

Over the past several months, Windstream has gathered aggregate records of customer churn and number porting—customer switching their phone and broadband service to a wireline

competitor—and has grouped that porting information by matching internal identification (MIROR_ID) of specific carrier serving areas (CSAs)⁴ and has cross-referenced those records with a list of associated census blocks that are shown on the National Broadband Map as served by an unsubsidized competitor at speeds of at least 3 Mbps/768 kbps.⁵ Windstream has then analyzed, by census block group, the number of telephone number porting requests from wireline carriers in the past 18 months with respect to Windstream customers that are accompanied by cancellation of the customer's Windstream broadband service. For the purposes of this analysis Windstream has focused on cases where customers are porting their phone numbers and cancelling their broadband service, which indicates such customers are switching to a competitor for both voice and broadband service. Although Windstream has performed its analysis at the individual census block level, it is presenting its data on the census block group level due to the relative instability of census block group definitions as compared to individual census blocks.⁶ Moreover, aggregating the data on a census block group level gives cable competitors the maximum benefit of the doubt because it demonstrates the presence or absence of porting activity over a much larger number of customer locations.

In its analysis, Windstream has found that in a significant number of census block groups—which typically encompass 600 to 3,000 people⁷—it has received *no* wireline porting requests in the past 18 months that are accompanied by cancellation of the customer's broadband

⁴ Carrier serving area is a term used by local exchange carriers to denote a geographic customer service area that is served or planned to be served by a single digital loop carrier.

⁵ CSA data can be geocoded to U.S. Census Bureau units, including census blocks, such that porting data can be analyzed at the census block level.

⁶ Windstream took this concern into account because the definition of census blocks and census block groups changed during the 18-month measurement period in Windstream's porting analysis.

⁷ See Census 2000 Geographic Definitions, available at http://www.census.gov/geo/www/geo_defn.html.

service, despite the fact that the associated census blocks are listed on the National Broadband Map as served by an unsubsidized competitor. In other words, despite the alleged presence of a competitor providing service at speeds of at least 3/768, Windstream has not received a single request in 18 months in an entire census block group to port a phone number to a wireline competitor and cancel the associated Windstream broadband service. Windstream submits that the lack of such porting requests throughout an entire census block group over 18 months is strong evidence that there is no competitor providing 3/768 or better service in the census blocks within that census block group.

Attached as Exhibit A are the results of Windstream’s porting analysis in its service territories in Georgia and North Carolina—a list of census block groups, by GEOID, that encompass census blocks that are listed on the National Broadband Map as served by a cable broadband provider, and whether in that census block group Windstream has received any requests in the past 18 months for telephone number ports to wireline carriers that are accompanied by cancellation of the customer’s broadband service. The results are noteworthy—of 1,082 census block groups within Windstream’s territory in these two states that are purportedly served by cable providers, 304 (28 percent) show *zero* number ports that are accompanied by cancellation of broadband service over the past 18 months. Windstream is currently developing completely geocoded data for its entire service territory, but its analysis thus far indicates that the results for Georgia and North Carolina are reasonably representative of the results in other states in Windstream’s footprint.⁸

⁸ Windstream has finalized its analysis of Georgia and North Carolina first because it has cable engineers on the ground in those states and thus was able to verify the analysis results and perform a “proof of concept.”

II. THE BUREAU SHOULD SUPPLEMENT THE JUNE 2012 SBI DATA WITH DATA FROM WINDSTREAM'S PORTING ANALYSIS.

In the Public Notice, the Bureau seeks any information interested parties believe should supplement the reported June 2012 SBI data.⁹ Presumably, this June 2012 SBI data, as supplemented, would form the basis of a challenge process to determine the final list of CAF Phase II-eligible census blocks. Windstream's porting analysis is producing, through a valid methodology, a list of census blocks that very likely are classified erroneously in the June 2012 SBI data as served by an unsubsidized competitor. Therefore, Windstream requests that the Bureau supplement the June 2012 SBI data by including, as eligible for CAF Phase II support, census blocks within census block groups that are shown in Windstream's porting analysis as having no telephone number ports that are accompanied by cancellation of Windstream broadband service over the past 18 months.

Proper identification of areas that should be CAF Phase II-eligible is critical to the efficient distribution of limited funding and the service of consumers. If a census block is erroneously excluded from eligibility, the customers within that census block may be left without any chance of receiving robust broadband service for years to come. Given these high stakes, the Bureau should err on the side of being inclusive rather than potentially leaving unserved areas with no hope for relief in the foreseeable future. Moreover, to the extent the Bureau can produce a baseline list that is as accurate as possible, the resulting challenge process will be less onerous for both the Commission and interested parties. Thus, the Bureau should supplement the June 2012 SBI data with other reliable data, such as the results of Windstream's porting analysis, for the purpose of developing an initial list of eligible census blocks. This initial list would then be subject to a meaningful challenge process in which a cable provider would have an opportunity

⁹ *Public Notice* at ¶ 10.

to rebut Windstream's porting analysis with affirmative evidence that it is providing voice and broadband service in a given census block. Such evidence should include printouts of billing information for customers within the area or engineering analyses, with accompanying officer certification as to the veracity of the material provided.¹⁰

III. IN THE LEAST, WINDSTREAM'S PORTING ANALYSIS SHOULD CREATE A PRESUMPTION OF ELIGIBILITY WITHIN A CHALLENGE PROCESS.

If the Bureau declines to supplement the June 2012 SBI data with the data from Windstream's porting analysis for the purpose of developing the baseline list of CAF Phase II-eligible census blocks, it should at least make clear that in the context of a challenge process, evidence through Windstream's porting analysis that census blocks actually are not served by an unsubsidized competitor should create a presumption that such census blocks are eligible for CAF Phase II. The burden should then shift to the relevant competitive provider to establish, through affirmative evidence as discussed above, that it provides unsubsidized voice and broadband service within the census block. If the competitive provider cannot provide such clear evidence, the census block should be deemed CAF Phase II-eligible.

CONCLUSION

In the interest of accuracy and efficiency, the Bureau should supplement the reported June 2012 SBI data, or whatever data set the Bureau plans to use as the baseline for a CAF Phase II challenge process, with the data from Windstream's porting analysis and any similar analyses performed by incumbent local exchange carriers. In the alternative, within the context of a challenge process, a location that is shown—through Windstream's porting analysis or similar analyses—as unserved by an unsubsidized competitor should be presumed eligible for CAF

¹⁰ See Public Notice, Wireline Competition Bureau Seeks Comment on Procedures Relating to Areas Eligible for Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund, WC Docket No. 10-90, DA 12-2075, at ¶ 12 (rel. Dec. 27, 2012).

Phase II, and such a presumption should be rebuttable only through actual billing record or engineering evidence that the unsubsidized competitor is offering service in that location.

Respectfully submitted,

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