

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
High-Cost Universal Support)	WC Docket No. 05-337

**COMMENTS OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (“USTelecom”)¹ respectfully submits these comments in support of the Application for Review (“Application”)² submitted by Silver Star Telephone Company (“Silver Star”) June 10, 2013, of the *Order* adopted May 9, 2013, by the Wireline Competition Bureau (“Bureau”).³ The *Order* was in response to Silver Star’s Petition for Expedited Waiver (“Petition”) to, among other things, change the density, road miles, and road crossing (density and road information) for Silver Star’s Idaho and Wyoming study areas that were used in the Quantile Regression Analysis (QRA) that established “benchmarks” for high-cost loop support (HCLS).⁴

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

² Silver Star Telephone Company Application for Review, *In the Matter of Connect America Fund, High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337 (filed June 10, 2013) (“Application”).

³ *Connect America Fund; High-Cost Universal Service Support*, Order, WC Docket Nos. 10-90, 05-337 (May 9, 2013) (*Order*).

⁴ See Letter from Mary J. Sisak, Counsel for Silver Star, regarding Idaho study area, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (filed Sept. 27, 2012) (*Idaho Waiver Request*); Letter from Mary J. Sisak, Counsel for Silver Star, regarding Wyoming study area, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (filed Sept. 27, 2012) (*Wyoming Waiver Request*); Letter from Mary J. Sisak, Counsel for Silver Star, regarding Idaho

Silver Star raises one of the two sets of concerns with the implementation of the current version of the QRA. Those concerns are methodological issues with its operation, and issues with the accuracy of data used to perform the necessary calculations for its application to a particular study area. Either or both can determine whether a company's HCLS is capped by the QRA. While the methodological issues have been raised by many parties in the context of a broader discussion of the QRA,⁵ the accuracy of the data used for each study area is often the subject of a petition for waiver by the company providing services in that study area. That is the instant case of Silver Star. Inaccuracies in the road miles database as applied to Silver Star causes the QRA to cap its HCLS which translates into an estimated loss of \$1.8 million per year in high-cost universal service support. The *Order* also is not responsive to issues raised by Silver Star with respect to the density calculations for its Idaho and Wyoming study areas.

I. Waiver Requests to Correct QRA Inputs Must be Carefully, Thoroughly and Seriously Examined by the Bureau

The accuracy of the QRA for rate-of-return eligible telecommunications carriers (ETC) is paramount, as it can trigger caps on HCLS received by rate-of-return companies. Such caps can have dramatic effects on company revenues and thus on the ability of an ETC to earn a reasonable return, continue to provide reasonably comparable and affordable service, and comply with the new broadband obligation included in the *USF/ICC Transformation Order*.⁶

study area amendment, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (filed Jan. 2, 2013) (*Idaho Waiver Request Amendment*); Letter from Mary J. Sisak, Counsel for Silver Star, regarding Wyoming study area amendment, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (filed Jan. 2, 2013) (*Wyoming Waiver Request Amendment*).

⁵ See, e.g. White Paper: Lessons from Rebuilding the FCC's Quantile Regression Analysis, by Vincent H. Wiemer and Michael J. Balhoff, CFA, Alexicon Consulting, Balhoff & Williams, LLC, WC Docket No. 10-90, (filed February 21, 2013).

⁶ *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*

Small companies have limited resources and do not take participation in FCC processes lightly. In order to participate in this particular waiver process, Silver Star had to engage attorneys and engineering consultants as well as purchase expensive mapping software and devote the time of company employees to the effort. The Bureau has encouraged such companies to correct their company information that is used to determine if the QRA caps will apply.⁷ Small companies, such as Silver Star, seeking to correct their data through the waiver process, deserve a full and fair hearing and a complete response.

Small companies are well aware of the penalties for misrepresenting facts to the Commission and fully understand the gravity of certifying information to the Commission. It is disappointing that the Bureau brushed aside the extraordinary amount of work and data submitted by Silver Star and ignored the officer's certification provided under penalty of perjury as to the accuracy of its statements and data. Although brevity is a virtue, the Bureau's analysis of this issue consisted of two sentences in a single five sentence paragraph – the other three sentences consisting of conclusions and denials of Silver Star's request.⁸ Surely Silver Star, and any small company, deserves better.

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 – Mobility Fund*, WT Docket No. 10-208, Report and Order and FNPRM, 26 FCC Rcd. 17663 (2011), *pets. for review pending*, *Direct Commc'ns Cedar Valley, LLC v. FCC*, No. 11-9581 (10th Cir. filed Dec. 18, 2011) (*USF/ICC Transformation Order*).

⁷ See *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Order, 27 Rcd 4235 (Wireline Comp. Br. 2012) (“*HCLS Benchmarks Implementation Order*”) at ¶ 27.

⁸ See Order at ¶ 7.

II. Silver Star Provided Superior Road Miles Information to the Bureau

If more accurate data is available in a particular instance, as Silver Star has demonstrated in its case, the Bureau should welcome its use. Merely because a database may generally be up-to-date and accurate nationally does not mean that it is current and accurate for a particular area. The Bureau seems concerned that grant of Silver Star's waiver would diminish the credibility of its use of ESRI data for the remainder of the rate-of-return study areas.⁹ America is a vast nation with huge rural expanses— it would be surprising if *any* database was 100 percent accurate in all instances for all places. But because small companies by their nature serve limited geographic areas, isolated problems in the database can have a disproportionate impact when applied to a particular company or study area.

As noted by the Application, it appears that the ESRI street map data was not updated for Silver Star's study area in 2010, thereby not capturing a significant portion of local roads associated with new housing subdivisions.¹⁰ This results in the road miles estimate being grossly inaccurate for Silver Star. The Bureau need not discard the ESRI database for general use to accept an alternative database for use in a situation in which the alternative, bolstered by shapefiles and aerial photos submitted by Silver Star, is clearly superior.

III. The Bureau Did Not Address Significant Issues Raised by Silver Star

As noted in the Application, Silver Star showed that the density used in the regression model is incorrect for both its Idaho and Wyoming study areas and asked the Bureau to correct

⁹ *Id.*, “Silver Star has not demonstrated that the Tiger Line 2010 data are superior to the ESRI data adopted by the Bureau in the *HCLS Benchmarks Implementation Order*.”

¹⁰ *See* Application at pp. 8-9.

this factor.¹¹ Density is a key driver of costs – an incorrect density calculation can cause the determination of the QRA to be significantly off for a particular area. The Bureau acknowledged Silver Star’s request for correction of its density data¹² but neither discussed nor addressed this issue. The Bureau should fully analyze and address waiver requests associated with factual issues related to the QRA. The Bureau must revisit this issue and respond.

The Bureau also did not recalculate the density for the Idaho study area after granting Silver Star’s request to change the study area boundary for Idaho, which increased the square mileage and the number of housing units in the study area. Without such recalculation, the previous corrections are meaningless. Also, apparently the density calculated by the Bureau for Silver Star’s Wyoming study area does not appear to be correct either.¹³ Both density calculations should be revisited and corrected.

IV. Conclusion

The Bureau should encourage and welcome corrections to the data used to calculate the QRA as applied to rate-of-return study areas for calculation of caps to their HCLS. And it indicated its intent to do so when it set up a streamlined, expedited waiver process for carriers to make technical corrections to study area boundaries and waived the filing fee.¹⁴ But in the case

¹¹ *Id* at p. 10.

¹² *See Order* at ¶ 1.

¹³ *See Application* at p. 11.

¹⁴ *See HCLS Benchmarks Implementation Order* at ¶ 31.

of Silver Star's attempt to use this process to correct seriously inaccurate data, the Bureau failed to uphold its high standards for thoroughness in its *Order*. This unfortunate result necessitates the full Commission acting pursuant to Silver Star's Application for Review.

Respectfully submitted,

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