

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

**REPLY OF SILVER STAR TELEPHONE COMPANY, INC.
ON APPLICATION FOR REVIEW**

Silver Star Telephone Company, Inc. (Silver Star), by its attorney, hereby submits its reply in connection with the Application for Review (Application), in which Silver Star asks the Commission to review and reverse the Wireline Competition Bureau's (WCB's) *Order*¹ denying, in part, Silver Star's request for expedited waiver to correct erroneous data used in the quantile regression analysis model. In the Application, Silver Star asks the Commission to correct erroneous data concerning density, road miles and road crossings for Silver Star's Idaho and Wyoming study areas and to apply the corrections to the benchmark methodology effective July 1, 2012. The United States Telecom Association (USTelecom) filed comments and the Western Telecommunications Alliance (WTA) and the Idaho Telecom Alliance (ITA) filed joint comments in support of Silver Star's Application. No party filed in opposition to the Application.

In the Application, Silver Star demonstrated that the WCB made erroneous findings as to important and material questions of fact and failed to address Silver Star's requests and arguments. Specifically, the WCB's conclusion that Silver Star failed to demonstrate that Tiger Line 2010 data are superior to ESRI Street Map data for road miles and road crossings is clearly

¹ *Connect America Fund; High-Cost Universal Service Support*, Order, WC Docket Nos. 10-90, 05-337 (May 9, 2013) (*Order*).

wrong and cannot be supported by any reasonable analysis of the data or the evidence presented in Silver Star's waivers.² Silver Star presented evidence in its waiver petitions showing that the ESRI Street Map data used by the WCB in the quantile regression analysis model grossly undercounts road miles and road crossings for Silver Star. Silver Star presented evidence that the Tiger Line data for road miles and road crossings shows far more road miles and road crossings than the ESRI Street Map data. Silver Star verified the accuracy of the Tiger Line data by comparing it to Silver Star's internal data and county government data for roads and road crossings. Silver Star provided a certification under penalty of perjury to support its showing.

Silver Star also demonstrated that the WCB's statements in support of its faulty conclusion, namely, that Silver Star's comparison was based on the wrong version of ESRI and that Tiger Line incorrectly includes certain types of roads, are without merit. As demonstrated by Silver Star, there is no significant difference in the road miles in ESRI Street Map versions 9.3 and 10.0 and both versions significantly undercount roads and, in particular, local roads in Silver Star's Wyoming and Idaho study areas.

As for the WCB's statement that Tiger Line incorrectly includes some types of roads, Silver Star demonstrated that there is nothing in the WCB's *HCLS Benchmarks Implementation Order*³ or instructions for the regression model that identify any type of road or any ESRI road code that has been excluded from the calculation of road miles and that the HCLS Geospatial Workflow 2012 states that all road types were included in the ESRI calculation of roads. In any event, even if the WCB is correct that driveways or any other category of road should not be

² In the Order, the WCB stated that it denied Silver Star's waivers because "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*." Order at ¶7.

³ *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Order, 27 Rcd 4235 (Wireline Comp. Bur. 2012) (*HCLS Benchmarks Implementation Order*).

included, local roads account for the majority of the difference between the two data sources. Therefore, the WCB would have to argue that local roads should be deleted before its contention that Tiger Line is not superior to ESRI would have any basis in fact.

The information presented by Silver Star, including the Tiger Line shapefiles, the aerial photos, and the comparison of ESRI data to Tiger Line data, clearly shows that a significant number of road miles are missed by ESRI. In fact, ESRI misses approximately one-third of all road miles in Silver Star's Idaho study area and approximately one-fifth of all road miles in Silver Star's Wyoming study area.⁴ The WCB's conclusion that ESRI missed "some roads in some cases" simply ignores the extent of the errors in the ESRI data. In addition, the WCB did not even address or examine Silver Star's contention that the root cause of the error in the ESRI data is that the data does not represent results for Silver Star as of the year 2010. Accordingly, there is no support for the WCB's contention that Tiger Line is not superior to ESRI for Silver Star's study areas.

The WCB also did not address Silver Star's argument that the density used in the regression model is incorrect for both the Idaho and Wyoming study areas, even though by granting the change in study area boundary, at a minimum, the density for the Idaho study area should be recalculated. As argued by USTelecom, density is a key driver of costs and an incorrect density calculation can cause the WCB's model "to be significantly off for a particular area."⁵

⁴ The estimate for Wyoming is based on Silver Star's revised study area boundary recently filed at the FCC.

⁵ Comments of the United States Telecom Association at 5. (USTelecom Comments)

In the *HCLS Benchmarks Implementation Order*, the WCB stated its intent to ensure that accurate data is used in the regression analysis.⁶ Not only is this required under principles of administrative law,⁷ it also is necessary to prevent harm to small rural rate-of-return carriers, like Silver Star. As argued by USTelecom and in the joint comments filed by WTA and ITA, there can be a dramatic and devastating impact on a rate of return carrier's critical high cost loop support revenue stream when the regression analysis cap is triggered, which in turn, can affect the carrier's ability "to continue to provide reasonably comparable and affordable service,"⁸ including broadband service.

In the case of Silver Star, this harm is real. Silver Star has facilities along the road miles not shown in ESRI and to every one of the subdivisions shown in the Tiger Line data and not included in the ESRI data, which represent a significant percentage of Silver Star's capital and operational expense. Silver Star estimates that the errors in the quantile regression analysis model translate into a loss of \$1.8 million per year for Silver Star.

As shown in its Application and herein, the WCB has failed to give serious consideration to Silver Star's showing that ESRI Street Map road miles and road crossing data is not accurate for its study areas, including Silver Star's contention that ESRI data was not updated to the year 2010. The minor errors associated with Silver Star using ESRI version 9.3 instead of 10.0 and the alleged error in Tiger Line concerning driveways and intra-property roads does not change

⁶ *HCLS Benchmarks Implementation Order* at ¶ 31.

⁷ See, Comments in Support of Application for Review of Silver Star Telephone Company at 3. (WTA and ITA Joint Comments) "Well established principles of administrative law require the Commission and its bureaus to engage in reasoned decision-making. Specifically, their decisions must be based upon a consideration of the relevant factors, must not entail clear errors, and must include a reasoned explanation for the action. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Motor Vehicles Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)."

⁸ USTelecom Comments at 2. See also, WTA and ITA Joint Comments at 4.

the fact that the ESRI data is grossly inaccurate. The WCB also failed to consider or address in any way Silver Star's contention concerning density data. Thus, the WCB's *Order* is arbitrary and capricious and should be reversed. Accordingly, Silver Star asks that the Commission reverse the WCB's findings, and direct the WCB to correct the road miles and road crossing data for Silver Star and to correct the density figures used in the regression model. Silver Star requests that these corrections be applied to the benchmark methodology effective July 1, 2012.

Respectfully submitted,

**SILVER STAR TELEPHONE
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Certificate of Service

I hereby certify that a copy of the forgoing **Reply of Silver Star Telephone Company, Inc. on Application for Review** was sent on July 3, 2013 via electronic mail to the following:

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