

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

|   |   |                      |
|---|---|----------------------|
| In the Matter of  | ) |                      |
|   | ) |                      |
| Connect America Fund  | ) | WC Docket No. 10-90  |
|   | ) |                      |
| Universal Service Reform – Mobility Fund                              | ) | WT Docket No. 10-208 |
|   | ) |                      |
| ETC Annual Reports and Certifications                                 | ) | WC Docket No. 14-58  |
|   | ) |                      |
| Establishing Just and Reasonable Rates for<br>Local Exchange Carriers | ) | WC Docket No. 07-135 |
|   | ) |                      |
| Developing an Unified Intercarrier<br>Compensation Regime             | ) | CC Docket No. 01-92  |

**REPLY COMMENTS OF THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

The Public Service Commission of the State of Missouri (“MoPSC”) submits reply comments in response to the Federal Communications Commission’s (FCC’s) Further Notice of Proposed Rulemaking (FNPRM) released June 10, 2014.<sup>1</sup> The FCC’s FNPRM seeks feedback on issues related to Connect America Fund (CAF) Phase II funding. The MoPSC’s comments make the following recommendations:

- Increase downstream broadband speed to 10 Mbps.
- Provide flexibility in meeting broadband deployment obligations.
- Ensure broadband remains available if area is ineligible for CAF funding.
- Support FCC’s CAF carrier accountability proposals.

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<sup>1</sup> *Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking*; WC Docket No. 10-90 et al In the Matter of Connect America Fund; FCC 14-54; adopted April 23, 2014 and released June 10, 2014. (FCC FNPRM)

## **Increase downstream broadband speed to 10 Mbps<sup>2</sup>**

Nearly all of the initial comments responding to the proposal to increase the downstream broadband speed to 10 Mbps are supportive of the proposal. Comments supporting the proposal tend to be conditioned on the FCC providing additional flexibility for broadband deployment or ensuring funding will be sufficient. Only one commenter indicated opposition to the proposal.<sup>3</sup>

The MoPSC supports the proposal to increase the downstream broadband speed to 10 Mbps. The 10 Mbps level is based on comparisons of broadband speed availability between rural versus urban areas. Such comparisons are important considerations in ensuring consumers in rural areas are not left behind. At this time it remains unclear how increasing the downstream broadband speed will impact costs of broadband deployment. For example a network equipment manufacturer indicates a higher speed will be more costly and urges the FCC to not raise the standard further than 10 Mbps.<sup>4</sup> In contrast the Utilities Telecom Council suggests the incremental costs of deploying a higher speed network are marginal.<sup>5</sup> Despite these differing opinions it should remain a worthy goal to structure the CAF to ensure rural areas will have comparable broadband service as urban areas.

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<sup>2</sup> This issue is raised in ¶138-141 of the FCC's FNPRM.

<sup>3</sup> Comments submitted by Wireless Internet Service Providers Association; pages 4-6.

<sup>4</sup> Comments submitted by ADTRAN, Inc. describes how a higher broadband speed will require deploying fiber deeper into the network as well as enhance middle-mile facilities.

<sup>5</sup> Comments submitted by Utilities Telecom Council; page 12.

## **Provide Flexibility in Meeting Broadband Deployment Obligations**

Initial feedback is mixed on the issue of providing flexibility in meeting broadband deployment obligations. In general, comments submitted by incumbent local exchange companies are supportive of providing increased flexibility in a variety of different ways. In contrast, comments submitted by associations representing the interests of potential competitive bidders express opposition or indicate such flexibility should be limited.

### *Allow flexibility to deploy broadband to less than 100% of funded locations<sup>6</sup>*

The MoPSC supports allowing a provider to deploy broadband to at least 90% of funded locations.<sup>7</sup> A provider should be required to identify the locations where broadband will be not deployed as early as possible. A provider should not be able to arbitrarily adjust deployment commitments after making a state-level commitment or after receiving authorization to receive support through a competitive bid process. This arrangement promotes a more open process and helps ensure broadband is reasonably deployed in a cost effective and efficient manner if supported by CAF funding.<sup>8</sup>

### *Allow flexibility to substitute unserved locations within partially served census blocks<sup>9</sup>*

The MoPSC supports allowing a provider to substitute unserved locations within partially served census blocks for locations within funded census blocks. Some

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<sup>6</sup> This issue is raised in ¶165-166 of the FCC's FNPRM. The FCC notes if a company is allowed to deploy broadband service to less than 100% of funded locations then the FCC anticipates a company's CAF support will be correspondingly reduced in a manner that is yet to be determined.

<sup>7</sup> This position is consistent with comments submitted by the United States Telecom Association; page 13.

<sup>8</sup> The high cost program has been subject to criticism regarding its lack of accountability and transparency. For example, see *FCC Should Improve the Accountability and Transparency of High-Cost Program Fund*; United States Government Accountability Office; GAO-14-587; released July 22, 2014.

<sup>9</sup> This issue is raised in ¶167 of the FCC's FNPRM.

flexibility may be appropriate because it will help bring broadband service to isolated unserved areas of a census block that would otherwise be classified as fully served. If the FCC ultimately provides such flexibility then the MoPSC recommends a requirement that a Phase II recipient must publically identify the locations intended for deployment. *Extend the deployment time period for a price cap carrier accepting a state-level commitment to at least 7 years.*<sup>10</sup>

The MoPSC supports such an extension. The MoPSC agrees with the comments submitted by the Idaho Public Utilities Commission and Utah Public Service Commission that a higher broadband speed will require a higher amount of investment and so more time should be allowed.<sup>11</sup> Moreover, the useful life of facilities used to provide broadband service to uneconomic areas will extend far beyond the funding period. This extension will also preserve the FCC's preference to maintain a shorter funding term for the state-level commitment versus the ten years allowed under the competitive bid process.<sup>12</sup>

### **Ensure Broadband Remains Available if Area is Ineligible for CAF Funding**

Currently an area is ineligible for CAF funding if an unsubsidized landline competitor offers broadband service to the area. The FCC is considering expanding this criterion so an area will be ineligible for the competitive bidding process if a subsidized

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<sup>10</sup> This issue is raised in ¶148 of the FCC's FNPRM.

<sup>11</sup> Comments submitted by Idaho Public Utilities Commission pages 2-3; Utah Public Service Commission, page 1.

<sup>12</sup> The FCC states, "We are not persuaded by those who argue that the term of support should be the same for all recipients of Connect America support, regardless of whether they receive support based on the forward-looking cost model or through competitive bidding...." *Order*, GN Docket No. 13-5 et al, In the Matter of Technology Transitions; FCC 14-5; ¶126; released January 31, 2014

provider is offering voice and broadband services meeting the FCC's requirements.<sup>13</sup> In this regard the FCC is striving to make efficient use of limited funding and to prevent the overbuilding of broadband networks.

Comments appear skeptical on this issue. For example TCA, Inc. states the existence of only a subsidized competitor suggests the area needs a subsidy.<sup>14</sup> The MoPSC recommends evidence should be required to ensure broadband service meeting CAF II requirements is offered and available before an area is considered ineligible for CAF II support.

Further, the MoPSC is concerned whether a subsidized provider will continue to provide service to an area if support is phased out. Therefore the FCC should ensure broadband service will remain available to an area if CAF II funding is phased out.

### **Increase Carrier Accountability for Connect America Funding**

In general, the MoPSC supports efforts to increase accountability and oversight for all aspects of the federal Universal Service Fund.<sup>15</sup> The MoPSC supports the FCC's proposal to require a company receiving CAF support to annually certify the company's broadband rates in rural areas are comparable to rates charged in urban areas. Such certification will help ensure rural consumers have affordable broadband service rates.

The FCC is also proposing to modify its rules to address situations whereby a high-cost recipient fails to submit its annual report (Form 481) or fails to be annually certified in a timely manner. The FCC's proposals appear reasonable in the sense the

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<sup>13</sup> ¶174-175 FCC FNPRM.

<sup>14</sup> Comments submitted by TCA, Inc.; page 8.

<sup>15</sup> The MoPSC recently revised the annual filing requirements for all eligible telecommunications carriers effective April 30, 2014. These requirements are identified in 4 CSR 240-31.130(3).

proposals contemplate a grace period if such delinquent filings appear to be an isolated incident and are rectified within five days. Comments suggest penalties represent an improvement but remain unduly harsh.<sup>16</sup> The MoPSC agrees with such comments that the FCC may want to reduce penalty amounts to a more reasonable level for simple clerical errors where the delinquency is cured within the grace period.

The FCC is seeking input on whether a provider found to be in noncompliance either through an audit or some other determination should be given an opportunity to improve performance prior to withholding support or whether the provider should face quickly-increasing support reductions. The MoPSC supports the FCC's latter alternative because it provides a greater incentive for a carrier to monitor compliance obligations and remedy any instance of noncompliance in a timely manner.

The MoPSC supports applying these same accountability proposals to recipients of Mobility Fund Phase II support.<sup>17</sup> Recipients of Mobility Fund Phase II support should not be treated differently than recipients of CAF Phase II support.

Respectfully submitted,



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<sup>16</sup> Comments submitted by NTCA, WTA, ERTA, NECA, et al; page 74 provides examples of how penalties are tied to the amount of support received; however, the FCC's proposal will still assess significant penalties if a filing is delinquent but ultimately made within five days of the deadline.

<sup>17</sup> FCC FNPRM; ¶331: "We also seek comment on whether we should apply any of our proposals described above for reducing support for non-compliance with service obligations to recipients of Mobility Fund Phase II support..."

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A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

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