

**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
)	
ETC Annual Reports and Certifications)	WC Docket No. 14-58
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	

REPLY COMMENTS

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COMPTEL hereby submits these Reply Comments pursuant to the Commission’s Further Notice of Proposed Rulemaking in the above-captioned proceeding.¹ COMPTEL is the leading industry association representing competitive telecommunications service providers, integrated communications companies and their supplier partners.

I. INTRODUCTION AND SUMMARY.

In Section 254 of the Communications Act, Congress provides that universal service be promoted so that all consumers can benefit from telecommunications and information services. As part of the mandate, Congress requires that services be reasonably comparable to services available in urban areas. For more than a decade, the Commission attempted to reform its

¹ Connect America Fund, *et al. 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., FCC 14-54 (rel. June 10, 2014) (“FNPRM”).

universal service and intercarrier compensation policies to better achieve Congress' statutory objective. In 2010, upon the request of Congress, the Commission delivered a National Broadband Plan that proposed reforming the nation's universal service policies to advance both fixed and mobile broadband networks, finding that both type of services had become essential to the country. Following the recommendations in that Plan, and after a robust record was gathered, the Commission reformed the high-cost fund on a bipartisan and unanimous basis. It included adopting the Connect America Fund and Mobility Fund—both of which were intended to be operational in 2013.

Because of the delays in the Commission's implementation of those Funds, it now seeks to consider modifications. However, citing his concern about delay for the reforms due to "rethink[ing] of past judgments," Commissioner Michael O'Rielly recently called on the Commission to stay the course and complete its implementation of the reforms stating:

In addition to CAF Phase II, providers have been waiting for resolution on a number of universal service decisions, including Mobility Fund Phase II, the Remote Areas Fund, and a long-term plan for rate-of-return support. ... Completing the CAF Phase II auction next year and finalizing rules for the other programs would dramatically alter investment and availability of broadband in more rural parts of America."²

COMPTTEL agrees and submits that the implementation of the Commission's reforms should proceed expeditiously so that rural Americans can benefit from the broadband deployment the already adopted reforms, once fully implemented, will promote.

In addition, the Commission should reject its plan to decrease the Mobility Fund budget. The information the Commission seeks to rely upon for finding that the mobile broadband job is

² Prepared Remarks by FCC Commissioner Michael O'Rielly at the LinkIDAHO 2014 Broadband Summit, at 5, *available at* http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0902/DOC-329118A1.pdf (Aug. 19, 2014).

done is flawed. The universal availability of mobile broadband networks in rural areas has not been achieved, and the Commission is putting at risk achieving the goal of mobile broadband services in rural America. As demonstrated herein, the benefits of mobile broadband are significant. From supporting mobile rural healthcare services, ensuring public safety, and supporting robust rural economies, mobile broadband networks contribute greatly to serving rural America and allowing all Americans to benefit from a better connected nation.

Accordingly, we urge that the Commission preserve the Mobility Fund and its allocated budget.

II. THE COMMISSION’S USE REFORM SHOULD BE IMPLEMENTED EXPEDITIOUSLY AS IT IS CRITICAL TO ENSURING UNSERVED AMERICANS CAN ACCESS BOTH FIXED AND MOBILE BROADBAND NETWORKS AND SERVICES.

The Commission’s implementation of its high-cost reform is critical to ensuring that consumers in rural areas have access to robust fixed broadband networks and advanced mobile networks where they live, work and travel. Indeed, the Commission stated in 2011 in its *USF/ICC Transformation Order* that “[t]he universal service challenge of our time is to ensure that all Americans are served by networks that support high-speed Internet access—in addition to basic voice service—where they live, work, and travel.”³

A year earlier the Commission first began to set its goals for improving the availability of broadband services to rural America in its National Broadband Plan. There it found a significant rural-rural divide for fixed broadband services because the then-existing high-cost program was failing to direct money to all parts of rural America where it was needed.⁴ It also found that next

³ See Connect America Fund, *et al. Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 10-90 et al, FCC 11-161, ¶ 5 (“*USF/ICC Transformation Order*”) (2011), *aff’d sub nom. In re* FCC11-161, 703 F.3d 1015 (2014).

⁴ National Broadband Plan, available at <http://transition.fcc.gov/national-broadband-plan/national-broadband-plan.pdf>, at 141-42 (“*National Broadband Plan*”).

generation (3G) mobile broadband service was not widely available in rural America.⁵ As such, it called for both a Connect America Fund and a Mobility Fund to address these issues, stating “both broadband and access to mobility are now essential needs, and America should have healthy fixed and mobile broadband ecosystems.”⁶

In the *USF/ICC Transformation Order* in November 2011, the Commission found that fixed and mobile broadband services have become “critical to our nation’s economic growth, global competitiveness, and civic life” and that the current USF/ICC regime must be reformed to ensure that all Americans would benefit from the availability of broadband networks.⁷ As such, the Commission adopted the Connect America Fund and Mobility Fund to promote the availability of fixed and mobile broadband networks, respectively. It also adopted the following goals for reform: (1) preserve and advance universal availability of voice service; (2) ensure universal availability of modern networks capable of providing voice and broadband service to homes, businesses, and community anchor institutions; (3) ensure universal availability of modern networks capable of providing advanced mobile voice and broadband service; (4) ensure that rates for broadband services and rates for voice services are reasonably comparable in all regions of the nation; and (5) minimize the universal service contribution burden on consumers and businesses.

⁵ *Id.* at 22.

⁶ *Id.* at 146.

⁷ *USF/ICC Transformation Order* ¶ 3

A. COMPTTEL's Members and Their Consumers Need Access to Robust Fixed Broadband Networks and Services, As Well As Advanced Mobile Networks and Services, In Order To Benefit From All The Value These Networks and Services Provide.

COMPTTEL and its members have a significant interest in the Commission's implementation of its high-cost reform. The telecommunications consumers who purchase service from COMPTTEL's members pay into the Fund. Moreover, some of our members are recipients, or affiliates of recipients, providing fixed or mobile services in rural areas. In fact, it is as a result of high-cost funding that these members are able to continue operating in hard to serve areas, allowing for consumers throughout the nation to benefit from connecting all corners of our society. Some of our members also supply the wireline inputs for wireless networks that are used to offer mobile services both in urban and rural areas. Finally, the network effects of connecting all consumers, no matter their location, and the benefit of all consumers having access to fixed and mobile broadband networks promotes use of the networks and services that our members offer. As the Commission has found:

Network effects arise when the value of a product increases with the number of consumers who purchase it. For example, telephone service to an individual subscriber becomes more valuable to that subscriber as the number of other people he or she can reach using the telephone increases.⁸

The same holds true for broadband services. The societal value and economic benefits of having a broadband-connected nation is important to COMPTTEL's members. The Commission's National Broadband Plan, as well as its many proceedings that have followed, have continued to promote the value that fixed and mobile broadband services can bring in many areas, including, for example, to the education and healthcare sectors.

⁸ *Id.* ¶ 1336.

B. The Broadband Availability Data Shows that The Commission Should Stay the Course and Expediently Implement Phase II of the Connect America Fund and Mobility Fund.

Unfortunately, the Commission’s implementation of its USF reform has taken longer than predicted. For example, Mobility Fund Phase II was supposed to have been implemented during 2013, and Connect America Fund Phase II should have started disbursements in 2013.⁹ As a result, the high-cost reserves have grown in anticipation of directing that money to the advancement of broadband availability,¹⁰ and a significant number of consumers still lack broadband service. The Commission’s most recent *8th Annual Report on Broadband* found that broadband networks were not being deployed to Americans in a reasonably and timely fashion, stating that approximately 19 million Americans—6 percent of the population—still lack access to fixed broadband service at threshold speeds.¹¹ As for mobile broadband, the Commission used several sets of data—the State Broadband Initiative (SBI) dataset and Mosaik dataset—cautioning that both sets likely overstate deployment “to a significant degree”¹²—estimating that,

⁹ *Id.* ¶ 28 & ¶ 25.

¹⁰ Earlier this year, the Commission stated that as of the first quarter of 2014, \$1.68 billion was available for in the high-cost fund for implementing the high-cost reforms. In re Technology Transitions, *Order and FNPRM et al.*, GN Docket No. 13-5, FCC 14-5, ¶ 204 (rel. Jan. 31, 2014) (“*Technology Transitions Order*”).

¹¹ In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, *Eighth Broadband Progress Report*, GN Docket No. 11-121, FCC 12-90, ¶ 1, 5 (2012) (finding that 14.5 million of those live in rural America) (“*Eighth Broadband Progress Report*”).

¹² *Id.* ¶ 35. The Commission also stated “we have concerns that they [the mobility data] overstate the extent of mobile broadband coverage meeting our speed benchmark.” *Id.* ¶ 36. For example, the Commission raised concerns that providers reporting the data overstate speed availability. *Id.* ¶ 37.

depending upon which technologies are included in the analysis, up to 150 million Americans are unserved by mobile wireless data services at 3 Mbps/768 kbps.¹³ Unfortunately, the FCC has yet to release its Broadband Deployment Reports for 2013 or 2014—despite the fact that the statute, as amended by the BDIA, calls for an *annual* report on broadband deployment.¹⁴ Nonetheless, it has recently stated that SBI data as of June 2013 “suggest[s] that 22 percent of Americans living [in] rural areas lack access to 4 Mbps/1 Mbps broadband.”¹⁵ This further confirms the need for the Commission to implement its already adopted high-cost reform to address the broadband availability gap.

NTIA, relying upon the SBI dataset as of June 2012 (which again, most likely overstates availability) found that 81% of Americans could access mobile wireless speeds up to 6 Mbps.¹⁶ That report also found a disparity of broadband network availability in rural America (for both wired and wireless networks), and specifically noted that availability “also differs considerably by state.”¹⁷ The Commission also has observed how broadband availability can vary by state.

¹³ *Id.* ¶ 90.

¹⁴ 47 U.S.C. § 1302. Section 706 of the Telecommunications Act of 1996, Pub. L. No. 104-104, § 706, 110 Stat. 56, 153 (1996) (1996 Act), as amended in relevant part by the Broadband Data Improvement Act (BDIA), Pub. L. No. 110-385, 122 Stat. 4096 (2008), is now codified in Title 47, Chapter 12 of the United States Code.

¹⁵ In re Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, GN Docket No. 14-126, *Tenth Broadband Progress Notice of Inquiry*, FCC 14-113, at ¶ 40 (rel. Aug. 5, 2014) (“*Tenth Broadband Progress NOP*”).

¹⁶ U.S. Broadband Availability: June 2010 – June 2012, A Broadband Brief Published by NTIA, May 2013, at 9-10, *available at* http://www.ntia.doc.gov/files/ntia/publications/usbb_avail_report_05102013.pdf.

¹⁷ NTIA found that “[a] greater proportion of rural Americans continue to lack access to broadband at all speeds compared to their urban counterparts (see Figure 5). At 6 Mbps, for

Further below, we address the mobile broadband availability data the Commission relies upon in the instant FNPRM, and assert that it is woefully insufficient for retracting its plans for implementing Mobility Fund Phase II or decreasing its budget.

Given the data on the availability of fixed and mobile broadband networks, the Commission's goal should be to quickly advance the disbursement of those monies to shrink the broadband availability gap for both fixed and mobile broadband networks. Chairman Wheeler aptly put it last week, when he said that we should not accept rural America "be[ing] behind the broadband curve" where a competitive marketplace will not deliver broadband.¹⁸ Such a digital divide is a disservice to the entire nation.

As the Commission is fully aware, it takes time for companies to plan for the use of such funds even once program rules are implemented. Understandably so much time has passed (almost three years) since the *USF/ICC Transformation Order* that the Commission would want to reevaluate the service requirements; however, it must also keep in mind that this is the public's money that it has been collecting to advance broadband networks and service. Money being held in reserves is not advancing the broadband goals. As Commissioner O'Rielly recently stated, "[c]ompleting the CAF Phase II auction next year and finalizing rules for the other programs would dramatically alter investment and availability of broadband in more rural parts of America."¹⁹

instance, less than 82% of rural Americans have access to broadband, compared to nearly 100% of urban Americans." *Id.* at 10-11.

¹⁸ Prepared Remarks by FCC Chairman Tom Wheeler, "The Facts and Future of Broadband Competition," at 1776 Headquarters, Washington, D.C., at 6 (Sept. 4, 2014), *available at* <http://www.fcc.gov/document/chairman-remarks-facts-and-future-broadband-competition>.

¹⁹ Prepared Remarks by FCC Commissioner Michael O'Rielly at the LinkIDAHO 2014 Broadband Summit, at 5, *available at*

Indeed, an additional step the Commission could take, which is the most efficient and effective way to immediately increase mobile broadband deployment to unserved areas, is to distribute the approximately \$73 million still available from Auction 901 in the Mobility Fund

Phase I. As asserted by the Rural Wireless Carriers:

[a]warding unclaimed auction 901 support to next-in-line bidders—which can be done expeditiously by the Wireless Telecommunications Bureau and Wireline Competition Bureau through the exercise of their existing delegated authority—would serve the Commission’s [additional] objective of disbursing Auction 901 funds as quickly as possible.²⁰

Accordingly, the Commission should do all it can to put the USF money to good use by deploying broadband networks expeditiously, as originally intended by the *USF/ICC Transformation Order*. Implementation of Phase II of both the Connect America Fund and Mobility Fund should be completed, as well as disbursement to next-in-line bidders of the remaining funds in Phase I of the Mobility Fund.

C. When Broadband Networks and Services Are Available, Consumers Put Them to Good Use and Everyone Benefits.

For those consumers who have been waiting for broadband networks to reach them, the wait has been long. Rural consumers should not be further short-changed from the opportunities that broadband can provide by further delay. Indeed, as well documented by this Commission, since its formulation of the National Broadband Plan, rural economies and their citizens stand to benefit greatly when they have comparable services available to them that urban Americans already enjoy. Today, urban Americans have robust broadband networks available to them,

http://transition.fcc.gov/Daily_Releases/Daily_Business/2014/db0902/DOC-329118A1.pdf (Aug. 19, 2014).

²⁰ Comments of Rural Wireless Carriers at 29-30.

typically offered by either an incumbent telephone company and/or a cable operator; and in some (limited) cases they have a third option from an overbuilder.²¹

It is evident that American consumers use broadband (when it's available) to better their lives. As of June 2013, 58 percent of households adopted fixed services of at least 3 Mbps/768 kbps.²² Based on data from two years earlier (as of June 2011), the FCC found that approximately 40% of households had adopted a fixed broadband service of 3 Mbps/768 kbps, while 64% of households were subscribing to at least 768 kbps/200 kbps fixed broadband service.²³ Not surprisingly, for the higher speed, in urban America the subscription rate is slightly higher at 43% and lower in rural America at 36.8%.²⁴ In a national survey to mark the 25th anniversary of the World Wide Web, Pew Research found that 87% of American adults now use the Internet.²⁵ For those Americans living in households earning \$75,000 or more, 99% of them are connected to the Internet. Ninety-seven percent of young adults (ages 18-29) and American adults with college degrees are connected to the Internet. The Pew Report also found that “[s]eventy-one percent of all American adults say they use the internet on a typical day. This is a significant increase from the year 2000 . . . when just 29% [of] all adults said they went online on a typical day.”²⁶ In fact, Pew found that “a notable share of Americans say the internet

²¹ COMPTEL has members in each of these categories.

²² *Tenth Broadband Progress NOI* ¶ 20.

²³ *Eighth Broadband Progress Report* ¶ 97.

²⁴ *Id.* ¶¶ 99-100.

²⁵ The Web at 25 in the U.S., The Overall Verdict: The Internet Has Been A Plus for Society and an Especially Good Thing for Individual Users, Pew Research Center, *available at* http://www.pewinternet.org/files/2014/02/PIP_25th-anniversary-of-the-Web_0227141.pdf (rel. Feb. 27, 2014) (“*Pew Report on The Web at 25*”).

²⁶ *Id.* at 19.

is essential to them.”²⁷ Fifty-three percent of Internet users said it would be very hard to give up their Internet access. Of those users, 61% “said being online was essential for job-related or other reasons.”²⁸ It is evident that the availability of high-speed Internet has been a boon to American consumers.

Mobility provides additional value to American consumers, and many American consumers subscribe to both fixed and mobile broadband services.²⁹ Appropriately, the Commission found that mobility should be an independent universal service goal for broadband.³⁰ In urban America, consumers have the option to purchase mobile broadband and voice services from numerous wireless providers. Last year, the Commission found that 98.8% of Americans in non-rural areas have four or more mobile wireless providers, as compared to 69.1% of Americans in rural areas.³¹

Where mobile broadband networks have been deployed, consumers can have access to voice and Internet services on the go. Indeed, the Pew Research Center stated this year that “[t]he rise of mobile device use represents the biggest shift in access over the past ten years: 68% of U.S. adults now say they access the internet on a cell phone, tablet, or other mobile device, at

²⁷ *Id.* at 6.

²⁸ *Id.*

²⁹ *Eighth Broadband Progress Report* ¶ 33.

³⁰ *Id.* ¶ 34 (citing *USF/ICC Transformation Order*).

³¹ In re Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services, WT Docket No. 11-186, *Sixteenth Report*, FCC 13-34, at Chart 46 (rel. March 21, 2013) (“*Sixteenth Annual Mobile Wireless Report*”). Again, some of these companies offering mobile wireless services in both the urban and rural areas are members of COMPTEL.

least occasionally.”³² In another report, as of January 2014, the Pew Research Center found that 58% of Americans have a smartphone, and 42% own a tablet computer, while 32% have an E-reader.³³ Not surprisingly, the percentage of rural Americans with smartphones is only at 43%.³⁴ In terms of usage, 63% of mobile phone users go online with their devices.³⁵

It remains critical that rural Americans have the comparable access to mobile broadband networks as urban Americans, and as we will discuss further, the full implementation of Mobility Fund Phase II is important to fulfilling (at least in part) this mission.

D. Both the Connect America Fund and Mobility Fund Phases II Make Sense As Advanced Wireless Networks Substantially Rely Upon Robust Wireline Networks.

In the National Broadband Plan, the Commission observed, “[h]igh-capacity circuits are critical inputs in the provision of fixed and mobile broadband services in rural America. Special access circuits connect wireless towers to the core network”³⁶ Moreover, it found the need for additional fiber backhaul facilities.³⁷ In its *Sixteenth Annual Mobile Wireless Report*, the

³² *Pew Report on the Web at 25*, at 19.

³³ Pew Research Internet Project, Mobile Technology Fact Sheet, *available at* <http://www.pewinternet.org/fact-sheets/mobile-technology-fact-sheet/>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *National Broadband Plan*, at 143. The Commission also stated that “[b]ecause data traffic is aggregated on backhaul facilities, per-customer middle-mile costs will increase significantly as consumers and businesses use their broadband connections more.” It also noted its ongoing review of the special access marketplace; a review that COMPTTEL has urged as special access rates and the volume, terms and conditions from large incumbents continue to reflect a failed market. *See, e.g.*, COMPTTEL Ex Parte Letter, WC Docket No. 05-25 *et al.* (April 2, 2014).

³⁷ *National Broadband Plan*, at 48-49, 139.

Commission stated that “[m]obile wireless providers must have access to sufficient backhaul, in terms of capacity and speed, to avoid creating communications bottlenecks.”³⁸

The Commission’s determination that two funds for fixed and mobile services should ensure the availability of advanced fixed and mobile networks in rural America is key to providing comparable mobile broadband services in rural America. With the availability of funds in Connect America Fund Phase II—it is expected that fiber will be deployed deeper in the networks, making fiber builds to towers in rural America more likely. These fiber builds likely will contribute greatly to the availability of 4G speeds to mobile consumers. COMPTTEL urges the Commission to move forward simultaneously with its implementation of Connect America Fund Phase II and Mobility Fund Phase II so both fixed and mobile broadband networks can be deployed in rural America where they are not available.

While COMPTTEL appreciates the Commission’s goal to ensure that the USF monies are being well spent,³⁹ the Commission should not put perfecting the implementation of the reforms ahead of the good that the second phases of the Connect America Fund and Mobility Fund will have on millions of Americans and their communities. Accordingly, it should move forward

³⁸ *Sixteenth Annual Mobile Wireless Report* ¶ 335 (noting upgrade to fiber and Ethernet facilities for some wireless providers to better operate their mobile broadband networks).

³⁹ As the FCC seeks to reform contributions for USF, COMPTTEL believes it is important that the contribution base be as broad as possible to include both telecommunications and broadband services, so that the fund will be more equitable for consumers and help lessen the growing burden on voice telecommunications providers and consumers. In addition, both consumers and competition are at a disadvantage when competitive providers are expected to pay USF on leased special access inputs into a broadband Internet access service, while incumbents do not have to pay USF on these services at all. *See generally* Comments of COMPTTEL, WC Docket No. 06-122 (filed July 9, 2012).

quickly with both Funds to advance the availability of fixed and mobile networks in unserved rural areas, and where broadband operations must be supported to remain available.

III. THE COMMISSION SHOULD NOT ADOPT ITS PLAN TO REDUCE THE BUDGET FOR MOBILITY FUND PHASE II.

A. The Commission’s Proposal Relies Upon Flawed Data.

In the instant *FNPRM*, the Commission states that “[s]ince the *USF/ICC Transformation Order* was adopted, there has been significant commercial deployment of mobile broadband services.”⁴⁰ The Commission relies upon several sources of data. First, it cites the *Sixteenth Annual Mobile Wireless Report* as showing nearly 99.5 percent of the U.S. population and associated road miles as covered by “some form of broadband technology.”⁴¹ However, there are several problems relying upon this data. First, the information the Commission relies upon includes both 3G and 4G technologies. The Commission’s plan for Mobility Fund Phase II was to extend 4G networks and provide operational support for such networks where there is no business case to build and/or operate in rural areas without support.⁴² Where rural areas attain no coverage or only 3G coverage, mobile broadband service will not be reasonably comparable to urban areas, as required by Section 254.

Second, as properly recognized by the Commission in the related footnote, this information overstates coverage as it is based on the marketing materials of providers.⁴³ Indeed,

⁴⁰ *FNPRM* ¶ 238.

⁴¹ *Id.*

⁴² *USF/ICC Transformation Order* ¶¶ 493-95. *See also* Comments of Rural Wireless Carriers, at 12.

⁴³ *FNPRM* ¶ 238, n. 436 (observing that the analysis “likely overstates the coverage actually experienced by consumers”).

for numerous years and in a number of proceedings, the Commission has cautioned against relying upon this data.⁴⁴ Indeed, as described by the Competitive Carriers Association (“CCA”), the methodology used to determine coverage is not reliable for many reasons, including the following:

- (i) relies on self-reporting and fails to utilize any independent assessment of coverage areas;
- (ii) does not account for the fact that each wireless service provider uses a different standard for determining ‘coverage;’ and
- (iii) does not expressly account for factors such as signal strength, bit rate, or in-building coverage.⁴⁵

CCA also was correct to note that the methodology is not as extensive as purported because it relies upon coverage of entire census blocks based on availability at the centroid.⁴⁶ In contrast, CCA specifically notes how coverage varies state-by-state, and how even with the unreliable data described above, the *Sixteenth Annual Mobile Wireless Report* estimates that about ten percent of U.S. road miles currently are not covered by mobile broadband networks.⁴⁷

The Commission also cites in the *FNPRM* both Verizon and AT&T as stating that their respective 4G LTE networks are available to about 95% of the U.S. population.⁴⁸ Reliance on these assertions for finding that universal service for mobility has now been achieved would be a mistake. These carriers likely have overstated coverage.⁴⁹ In addition, even if one relies upon the coverage statements, there are still five percent of Americans who have not been reached.

⁴⁴ See, e.g., *Eighth Broadband Progress Report* ¶ 35.

⁴⁵ Comments of Competitive Carriers Association, at 6-7.

⁴⁶ *Id.* at 7.

⁴⁷ *Id.* at 8-9.

⁴⁸ *FNPRM* ¶ 238.

⁴⁹ See, e.g., Comments of the Blooston Rural Carriers, at 4.

Neither of these providers has an obligation to reach the remaining five percent of the population or extend their networks to address the ten percent of road miles the Commission estimates has not been covered by mobile broadband.⁵⁰

The Commission's mobility goal includes the capability to travel and, as such, maintain broadband access on the go, but many areas and road miles remain to be built by 4G technologies.⁵¹ It is not clear from these statements by Verizon and AT&T whether they have constructed sufficient backhaul to provide users 4G speed. This is another problem with relying upon unverified assertions of the availability of 4G mobile broadband even for the 95% of the population they claim to already cover with 4G LTE.

As the Commission is fully aware, the second and third generations of both these carriers are incompatible. Consumers that subscribe to either of these carriers have no guarantee of coverage on each other's networks, much less in rural America where their service provider has not built a network. This is because neither of these carriers has an obligation to allow their own subscriber to roam on *other* providers' networks. For example, if Verizon has built in a rural area that AT&T has not, even if an AT&T's customer's handset was compatible with Verizon's network, AT&T does not have to allow its customer to roam on the Verizon network. For all these reasons, the Commission should not rely upon these statements of coverage to adjust the Mobility Fund Phase II budget.

In fact, the Commission has yet to properly analyze the actual cost of providing universal mobile broadband (4G) services. The original budget of \$500 million—while based on a number

⁵⁰ See also Comments of Rural Wireless Carriers, at 13.

⁵¹ CTIA Comments, at 5-6.

of factors—was not based on any cost analysis for achieving universal mobile coverage.⁵² Instead, the *USF/ICC Transformation Order* relied upon the amount of support (almost \$600 million) that regional (non-national) providers were receiving under the identical support rule, which as the Commission knows was not based on the cost of building and operating wireless networks.⁵³ It also relied upon the Joint Board’s recommendation for a Mobility Fund budget in explaining the \$500 million annual budget.⁵⁴ However, it was Commissioner Clyburn who was instrumental in the setting of the budget at \$500 million. When voting in favor of the *USF/ICC Transformation Order*, she stated:

I am grateful that the fund for ongoing mobility fund support—Mobility Fund II — has been increased 25% more than what was originally proposed in the circulated draft, reflecting the fact that mobility for rural areas is a priority.⁵⁵

The Commission’s proposal to cut its already arbitrary budget based on flawed data and analysis is contrary to the public interest and universal service goals. Allowing for cuts, without first assessing the costs to build and operate advanced mobile networks in rural areas, will undermine

⁵² The entire high-cost budget was based on the fact that the program was spending about \$4.5 billion annually, and the Commission did not want to increase spending—the budget was not based upon the cost of bringing and sustaining fixed and mobile networks to serve all Americans in a timely fashion. See *USF/ICC Transformation Order* ¶¶ 121, 125. Indeed, the Commission struggled with the broadband needs and meeting its statutory requirement of “comparable services,” and in the National Broadband Plan requested that Congress target additional funds to rural America to help address broadband availability. *National Broadband Plan* at 152 (setting forth several recommendations for additional funding by Congress to advance the availability of broadband networks and services).

⁵³ *USF/ICC Transformation Order* ¶ 495.

⁵⁴ *Id.*

⁵⁵ *Id.*, Statement of Commissioner Mignon L. Clyburn.

the Commission's mobility broadband goal.⁵⁶ And mobile broadband will not be the priority for the nation that Commissioner Clyburn lauded just three years ago.

B. The Commission's Universal Service Goal to Promote Advanced Mobile Networks and Services, Consistent with the National Broadband Plan and *USF/ICC Transformation Order*, Should Not Be Abandoned. Comparable Service in Rural America Is Important to Delivering All The Benefits That Mobile Broadband Offers.

As discussed in Section II above, the National Broadband Plan recognized the importance of mobile broadband to the delivery of essential services to consumers. Building on that record, the Commission adopted the goal for mobile broadband to be available and supported where there is not a business case to do so, and determined that Mobility Fund Phase II should be used to advance mobile broadband services. As discussed above, there is no credible evidence that these goals should be abandoned.

The availability of mobile broadband networks is not an end to itself. Rather, the benefits that flow to rural consumers and their communities when mobile broadband is available to them are numerous. The Commission's record already is replete with the number of benefits mobile broadband provides. As discussed above, consumers use their smartphones and tablet devices to stay connected on the go. Whether for work or play—mobility provides consumers opportunities that cannot be offered with fixed services alone. The various benefits are numerous; however, for brevity's sake we will focus on just a few.

⁵⁶ See, e.g., *Comments of Rural Wireless Carriers*, at 5-6 (stating that the demand in Phase I of the Mobility Fund demonstrates that a cut in Phase II is premature); *Comments of Blooston Rural Carriers*, at 6-7 (explaining that the proposed budget cut “underestimates the need and expend of reaching” unserved rural areas and noting that the Commission observed after both Mobility Fund Phase I and Tribal Mobility Fund Phase I that “demand for universal service support far exceeded the supply of available funding.”).

Public Safety. The availability of mobile broadband networks advances public safety throughout the nation. The capability for public safety officials to communicate with one another over such networks, and with their citizens, is significant.⁵⁷ The saving of lives and property and the ability of citizens to connect to public safety officials is critical. More often than not, citizens are using their mobile phones to alert public safety officials of emergency situations.⁵⁸ Whether located in an urban or rural area, consumers expect that they can reach public safety officials who can assist them in an emergency. As more communications with those officials convey information services, and are not just voice calls, the availability of mobile broadband will be necessary. Moreover, investment in the mobile broadband networks today will allow for FirstNet to leverage that investment in locating its equipment in the near future.

Rural Healthcare. With the capability to access mobile broadband networks, healthcare can be advanced in rural America, saving lives, time and money. For example, as highlighted in C Spire's Comments, it recently joined in forming a telehealth program, partnering with the University of Mississippi Medical Center, as well as other healthcare organizations, using its mobile broadband network.⁵⁹ This broadband service allows patients to obtain clinical services remotely, while they are in their homes. For rural Americans, avoiding the necessary time to take off from work to travel long distances to seek medical care, saves them money and time. It also prevents medical providers from being tied up with unnecessary visits. As the Commission

⁵⁷ See, e.g., Comments of Rural Wireless Carriers, at 7-8 (“[B]roadband functionalities can deliver invaluable tools and capabilities to public safety personnel operating in rural areas.”)

⁵⁸ One estimate is that 70% of calls to 911 today are from wireless phones. See FCC's 911 Wireless Services Guide, available at <http://www.fcc.gov/guides/wireless-911-services>.

⁵⁹ Comments of Cellular South Licenses, LLC d/b/a C Spire, at 7-8.

is well aware, wireless medical devices that can be remotely monitored, can significantly improve the delivery of medical care.⁶⁰ But for those benefits to be achieved in rural America, mobile broadband networks will need to be available so consumers can use and benefit from these services.

Rural Economies. With the availability of the mobile broadband networks, rural consumers and their communities will benefit from the economic opportunities such networks afford. For example, farmers and ranchers can better produce and deliver their products to market. Indeed, Deere & Company comments that the future growth of our nation’s agricultural sector requires expanded mobile broadband in rural areas:

Not only is it critical that farm buildings have access to high speed broadband to communicate with their customers and vendors, follow commodity markets, gain access to new markets around the world, and manage regulatory compliance, but more and more farmers are demanding capability for machine-to-machine communications from the field that make possible significant improvements in real-time productivity and cost management.⁶¹

However, it goes on to state that many of its customers “are challenged with adequate cellular coverage.”⁶² Its current JDLINK™ data service already faces a data transmission failure rate of 30%, and Deere & Company estimates that this will get worse as demand increases.⁶³

Accordingly, Deere & Company asserts that additional tower infrastructure for mobile broadband, connected by fiber, is necessary.⁶⁴ In order to best achieve mobile broadband

⁶⁰ See Comments of Rural Wireless Carriers, at 9.

⁶¹ Comments of the Deere & Company, at 2-3.

⁶² *Id.* at 3.

⁶³ *Id.* at 3-4.

⁶⁴ *Id.* at 4.

coverage in rural America, the Commission should implement Mobility Fund Phase II with its \$500 million annual budget intact.

Where mobile broadband networks and services are not available, rural America will not achieve the benefits we describe, and the Commission's obligation to ensure reasonably comparable services will remain unfulfilled. As Commissioner Clyburn stated in support of the universal service reform and the Mobility Fund:

Certainly, rural consumers and those who travel in nonurban areas expect that they will have access to mobile services that are comparable to anywhere else in this nation. We want and expect our devices to work wherever we are.⁶⁵

Commissioner Clyburn is absolutely correct. No consumer, whether urban or rural, should lose mobile broadband when they drive 20 miles off the Interstate or major highway. Consumers are using their mobile devices to conduct business, arrive at their destination, and stay connected, including to 911 services. The Commission's actions should reflect the priority to preserve the availability of those services in rural America that already rely upon the identical support to offer such service and to advance 4G networks where there is no business case without high-cost support. Accordingly, the Mobility Fund Phase II budget should not be cut, and no phase down of current support should occur until Mobility Fund Phase II is operating and providing replacement funds to those areas that need continued support for ongoing operations.

⁶⁵ *USF/ICC Transformation Order*, Statement of Commissioner Mignon L. Clyburn.

IV. CONCLUSION

For the forgoing reasons, COMPTEL submits that the Commission should act quickly to complete its implementation of Phase II for both the Connect America Fund and Mobility Fund, and it should retain the entire budget allocated for Mobility Fund Phase II.

Respectfully submitted,

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