

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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 a Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
)	

REPLY COMMENTS OF NTELOS HOLDINGS CORP.

NTELOS Holdings Corp. (“NTELOS”),¹ by its attorneys, hereby respectfully submits these reply comments in response to the *Further Notice of Proposed Rulemaking* released by the Federal Communications Commission (“FCC” or the “Commission”) in the above-captioned proceeding (the “FNPRM”).² NTELOS urges the Commission to recognize the unique benefits of mobile broadband, and refrain from diminishing or reallocating funding from the Mobility Fund and the High Cost Support program for mobile broadband services. The Commission

¹ For purposes of these Comments, the term “NTELOS” refers to NTELOS Holdings Corp. and all of its FCC-licensed subsidiaries.

² In the Matter of Connect America Fund et al., WC Docket 10-90 et al., *Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking*, FCC 14-54 (rel. June 10, 2014) (“FNPRM”).

should also reject its proposal to use an arbitrary threshold based on revenues to accelerate the elimination of legacy high cost support. In support, the following is respectfully shown:

I. INTRODUCTION

NTELOS is a regional provider of high-speed voice and data services to businesses and approximately 458,100 retail subscribers in most areas of Virginia and West Virginia, and select areas of Maryland, Ohio, Kentucky, North Carolina and Pennsylvania. NTELOS's licensed territories have a total population of approximately 8.0 million residents, of which its wireless network covers approximately 6.0 million residents. NTELOS competes in its service areas against the nationwide wireless carriers, and it actively innovates and offers competitive services to its customers.

NTELOS is also an active participant in the Commission's USF and CAF programs. NTELOS receives Mobility Fund and High Cost support, both of which have supported the deployment of mobile broadband services to extremely hard to reach coverage areas. Indeed, NTELOS, through its affiliate, West Virginia PCS Alliance, L.C., is eligible to receive up to \$5,000,086.72 Mobility Fund Phase I support for providing 4G coverage to 150.46 road miles. This support has allowed NTELOS to focus on deployment in remote areas that would have likely gone unserved due to the high cost and difficulty in reaching such areas.³ NTELOS is extremely concerned by any Commission proposals that would reduce, reallocate or eliminate such support. NTELOS urges the Commission to support, rather than hinder, the continued deployment of mobile broadband to hard to reach rural, unserved and underserved areas.

³ See Mobility Fund Phase I Auction Closes Winning Bidders Announced for Auction 901, *Public Notice*, DA 12-1566, Attachment A (rel. Oct. 9, 2012).

II. THE COMMISSION SHOULD REFRAIN FROM REDUCING OR REALLOCATING MOBILITY FUND SUPPORT IN LIGHT OF THE IMPORTANT PUBLIC INTEREST BENEFITS THAT RESULT FROM MOBILE WIRELESS SERVICES

Mobile broadband services continue to be essential to consumers' ability to access the Internet. In many instances, mobile broadband acts as the principal means by which certain consumers are able to access the Internet.⁴ To that end, the Commission must refrain from taking any action that would reduce or reallocate support that otherwise would have been available via the Mobility Fund.

A. Mobile Broadband Services Are Increasingly Essential To American Consumers and Industries

Study after study confirms what the Commission should already know: mobile broadband is a critical component of how many people are able to access the Internet. Indeed, a recent study found that an estimated 45 million Americans use mobile devices as their primary Internet access device.⁵ Another study determined that two out of five American adults and 47 percent of American children live in wireless-only households.⁶ The record in this proceeding also highlights the increasingly important role that mobile wireless services are playing in consumers'

⁴ See Maeve Duggan and Aaron Smith, *Cell Internet Use 2013*, PEW RESEARCH INTERNET PROJECT (Sept. 16, 2013), available at <http://www.pewinternet.org/2013/09/16/cell-internet-use-2013>; see also Comments of Competitive Carriers Association, 11 (filed Aug. 8, 2014) ("CCA Comments").

⁵ See Maeve Duggan and Aaron Smith, *Cell Internet Use 2013*, PEW RESEARCH INTERNET PROJECT, 7 (Sept. 16, 2013), available at <http://www.pewinternet.org/2013/09/16/cell-internet-use-2013>; U.S. Census, Annual Estimates of The Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 – July 1, 2013, 2013 Population Estimates available at <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkml>.

⁶ Stephen J. Blumberg, Ph.D & Julian V. Luke, *Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, July-December 2013*, Nat'l Center for Health Statistics (July 8, 2014) available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201407.pdf>.

lives – and the essential need for additional deployment of these services. Studies in this proceeding have demonstrated that mobile broadband services account for the majority of new residential broadband additions; the majority of time Americans spend on digital platforms; and, as noted above, that many Americans use mobile broadband as their main vehicle for accessing the Internet.

In addition, mobile broadband has also expanded significant benefits to a varied number of industries – benefits that must continue to be nurtured. For instance, CCA highlights the important impact that wireless systems have on increasing the productivity of American agriculture – a benefit echoed by Deere & Company.⁷ Telehealth and mHealth systems also have improved the quality of American healthcare by offering services such as videoconferencing and remote monitoring systems that provide more efficient access to resources and “have been shown to reduce the length and frequency of hospital visits and potentially reduce mortality rates.”⁸ Moreover, public safety services also benefit immensely from mobile wireless technology. Wireless technology “is often critically important for first responders responsible for providing emergency services in sparsely populated rural and remote areas.”⁹ And as the Rural Wireless Carriers further recognize, the “cellular towers deployed and

⁷ CCA Comments, 12; Comments of Deere & Company (filed Aug. 8, 2014) (“Deere & Company Comments”). Furthermore, Deere & Company also outlines the difficulties farmers in remote areas are facing with respect to coverage gaps. Deere & Company Comments, 3 (noting that “due to significant gaps in cell coverage in rural areas where farm machines operate . . . data transmissions have only a 70% successful call completion rate.”).

⁸ CCA Comments, 12.

⁹ Comments of the Rural Wireless Carriers, 7 (filed Aug. 8, 2014) (“Rural Wireless Carriers Comments”).

maintained by wireless competitive ETCs using Mobility Fund support are available for use as colocation facilities by the nationwide public safety network.”¹⁰

B. The Mobility Fund Is Critical To The Continued Deployment Of Mobile Broadband Services In Rural and Remote Areas

Important public interest benefits result from the deployment of mobile broadband services but work still needs to be done in order for the full potential of these services to be met. The Mobility Fund provided an opportunity for wireless providers to receive resources to help further produce public interest benefits from mobile broadband services. And wireless providers jumped at the opportunity to receive extra funds and better serve their customers. The Mobility Fund Phase I auction (“Auction 901”) attracted a number of participants, including NTELOS, and ultimately awarded \$299,998,632.25 to “clos[e] gaps in mobile coverage across the United States.”¹¹ NTELOS urges the Commission to not ignore the important lessons derived from Auction 901 when establishing the final decisions surrounding Phase II.

Although the FNPRM recognizes that the “demand for universal service support far exceeded the supply of available funding”¹² during Phase I, the Commission is now seeking to take actions that would reduce the funding for Phase II. This is a mistake, as the demand for funds to deploy mobile broadband services in difficult-to-deploy areas is clearly present. As several commenters point out, Auction 901 demonstrated that the interest in building out mobile

¹⁰ Rural Wireless Carriers Comments, 8.

¹¹ In Auction 901, 38 bidders participated to submit nearly 900 bids. A total of 33 winning bidders were ultimately selected to build out desperately needed 3G and 4G services to up to 83,000 unserved road miles in mostly rural and remote areas throughout 31 states. News Release, FCC Announces Winners of America’s First ‘Mobility Fund’ Auction” Up to 83,000 New U.S. Road Miles on Which Millions of Americans Live, Work, or Travel Will Gain Access To Mobile Internet Within 3 Years (Oct. 3, 2012) (“Mobility Fund News Release”); *see also* http://wireless.fcc.gov/auctions/default.htm?job=auCTION_factsheet&id=901.

¹² FNPRM, ¶ 241.

areas is apparent, but significant Commission support is necessary to achieve the goals of the universal service fund.¹³ Reallocating or reducing the amount of support provided in Mobility Fund Phase II will only harm the chances of ensuring that universal service funding is “cost-effective and targeted to areas that require public funding to receive the benefits of mobility.”¹⁴

NTELOS joins those commenters in urging the Commission to refrain from reducing the amount of support available for mobile broadband deployment, and instead to focus on ways to increase the overall size of the Mobility Fund.¹⁵ While Phase I provided a good start, “the Commission still has a long way to go toward its goal of maximizing the availability of mobile broadband in rural areas.”¹⁶ Several commenters have expressed concern over the “insufficient” size of Phase II – especially in light of the overwhelming demand for funding in Phase I. C Spire, for instance, highlighted the fact that the Phase II \$500 million budget is “a fraction of the support dedicated to wireline carriers by the *CAF Order*, already represent[ing] a significant reduction in recent support for mobile services.”¹⁷ C Spire also underscores that wireless carriers submit a much larger percentage of support into the USF system than what is allocated for wireless service support.¹⁸ NTELOS agrees that it would be unfair for the Commission to

¹³ See e.g., Rural Wireless Carriers Comments, 6; See also CCA Comments, 14-15; CTIA Comments, 5-6; C Spire Comments, 6-9.

¹⁴ FNPRM, ¶ 236 (citing *USF/ICC Transformation Order*, 26 FCC Rcd 17663 at 17772-73, ¶ 298).

¹⁵ Comments of Cellular South Licenses, LLC d/b/a C Spire, 2 (filed Aug. 8, 2014) (“C Spire Comments”).

¹⁶ United States Cellular Comments, WC Docket No. 10-90, WT Docket No. 10-208, 4 (filed Dec. 21, 2012).

¹⁷ C Spire Comments, 8.

¹⁸ *Id.* (recognizing that “mobile wireless support amounts to just 11 percent, but wireless carriers and their customers contribute 44% of total USF funds” while LEC contributions amount to 22% of total contributions.).

continue to take substantial funds from wireless providers, but not invest a similar proportion of significant funds back into the deployment of mobile broadband service to areas that would certainly benefit from broadband deployment.¹⁹

Furthermore, NTELOS does not agree that reallocating funds to the Remote Area Fund or CAF Phase II will help achieve the overall goal of the Mobility Fund.²⁰ Although the Commission “expect[s]” wireless providers to participate in both funding mechanisms, NTELOS finds it difficult to believe that these other mechanisms, which are currently heavily weighted toward price cap incumbents and other providers, will be able achieve the same results as a funding mechanism strictly dedicated to service mobile providers. Several commenters have shared this doubt and concern.²¹ As noted above, Phase I demonstrated the “need and desire” of providers to extend mobile broadband deployment to rural areas and also demonstrated that the Mobility Fund mechanism was helping to achieve that goal. There is no reason that the Commission should alter this now without applying significant – and more equitable and technology-neutral – changes to the CAF II fund.²²

¹⁹ See C Spire Comments, 8.

²⁰ See FNPRM, ¶ 246.

²¹ C Spire Comments, 11 (noting that the Mobility Fund “is fundamentally different from merely having an opportunity to compete for a pool of funds that is also available to price cap incumbents and other service providers.”).

²² See CCA Comments, 16-22 (supporting (i) technology-neutral CAF Phase II eligibility; (ii) consistency in deciding whether CAF Phase II funding should facilitate service by both fixed and mobile providers in a given area; (iii) performance requirements that are achievable by a variety of fixed and mobile technologies; and (iv) auction mechanics that select CAF Phase II winners based on objective criteria).

III. THE RECORD DOES NOT SUPPORT ACCELERATION OF THE PHASE-DOWN OF HIGH COST FUNDING FOR WIRELESS ETCS

The FNPRM proposes to eliminate, as early as December 31, 2014, frozen support “for any wireless competitive ETC for whom high-cost support represents one percent or less of its wireless revenues.”²³ Such a proposal would not further the Commission’s universal service goals. To the contrary, reducing such legacy support could potentially result in serious harm to consumers, up to and included the discontinuance of service in certain areas. This proposal has only been met with opposition stemming from concerns over service interruption and other likely consequences.²⁴ Accordingly, the Commission must refrain from accelerating the phase-down for wireless support. In addition, NTELOS agrees with those commenters that urge the Commission to maintain existing support levels until the Mobility Fund Phase II funding is distributed, rather than resume the phase-down upon the adoption of rules for Phase II.²⁵

The Commission asks whether it is “reasonable to assume that if a carrier’s competitive ETC support is a tiny fraction of its revenues, that carrier is not relying on such support to maintain existing service.” NTELOS submits that this is not a reasonable assumption. Even if the existing support is less than one percent, NTELOS, like many other small and rural providers, has limited resources, and finds that *any* assistance is better than no assistance, particularly for areas that likely would not have been constructed without such funding. NTELOS is concerned, like many other commenters, that this arbitrary percentage threshold will do more harm than good.²⁶

²³ FNPRM, ¶ 253.

²⁴ Indeed, NTELOS is not aware of any party on the record that supports this proposal. *Cf.* C Spire Comments; CCA Comments, AT&T Comments, Rural Wireless Carrier Comments.

²⁵ *See e.g.*, C Spire Comments, 3-4; Rural Wireless Carriers Comments, 44.

²⁶ *See e.g.*, C Spire Comments 4, CCA Comments 22-24.

Many carriers, including NTELOS, rely on this support to both build out and maintain coverage in high cost areas. If this support suddenly is eliminated, it is possible that services provided by these wireless carriers will not be enhanced further, and potentially may be eliminated entirely.²⁷ Indeed, if there is an elimination of such support, it is possible that providers such as NTELOS may not be able to maintain existing services in certain high cost areas to consumers at all. This could include the shutting down of cell towers in high cost locations, which could leave consumers – both retail and roaming - with limited, or even zero, choices for wireless service. Such an action would be antithetical to the Commission’s stated goal of wanting to increase access to broadband to all consumers.

CCA also expresses a similar view of the Commission’s presumption and further highlights the fact that the FNPRM failed to provide any data to validate this presumption. CCA proposes not to accelerate the phase down to those ETCs whose high-cost support amounts to more than one percent of wireless revenues “because the Commission ‘lack[s] sufficient data’ to formulate a ‘tailored approach’ that would ensure that consumers continue to have such access to such services.”²⁸ CCA also correctly points out that the Commission’s proposed threshold notably “focuses solely on a wireless ETC’s support as a percentage of total wireless *revenues* and completely ignores *costs* and other operational factors.”²⁹ NTELOS agrees. C Spire further notes that it would be a mistake to establish a percentage threshold for accelerating the reduction

²⁷ The FNPRM offers providers the opportunity to “seek a waiver of the accelerated phase-down if the elimination of support would result in consumers losing access to existing service.”(FNPRM, ¶ 253). This does not ease NTELOS’s concerns. Seeking a waiver would be overly burdensome and require additional resources to be expended on behalf of the wireless provider. Furthermore, the FNPRM provides no guarantee that the Commission would grant such as a waiver.

²⁸ CCA Comments, 23 (citing FNPRM, ¶ 250).

²⁹ *Id.*

of legacy funding and thus “disrupt the support that competitive ETCs depend on for building wireless infrastructure and providing ongoing service to rural communities.”³⁰ Even AT&T echoes many of these same concerns and notes that the Commission fails to explain or justify its proposal, and that it should be rejected as arbitrary and capricious.³¹ The Commission should heed this unanimous chorus of concerns and reject its proposal to eliminate legacy support based on an arbitrary threshold; or risk the potential loss of coverage in critical high cost areas.

Lastly, the Commission should not reduce legacy support before additional support is available via the Mobility Fund Phase II. NTELOS agrees with the many commenters that note that the timing of any reduction on legacy support must be tied to the distribution of funds under a different mechanism; not an arbitrary deadline.³² There could be a significant time lag between the adoption of the rules and the actual distribution of support. This gap could only serve to hurt consumers, and potentially result in the reduction of service.

IV. CONCLUSION

Based on the foregoing reasons, NTELOS respectfully requests that the Commission refrain from reducing or reallocating the Mobility Fund Phase II budget, and instead focus on ways to increase the budget due to the significant demand for such funding demonstrated during Phase I. In addition, NTELOS urges the Commission to refrain from adopting the FNPRM’s proposal to accelerate the phase-down of high-cost funding for wireless providers based on an arbitrary percentage threshold.

³⁰ C Spire Comments at 4. Even if the Commission adopts an arbitrary threshold, such threshold must be limited only to the revenues of the ETC subsidy receiving such support, and should not include wholesale revenues.

³¹ AT&T Comments, 33-40.

³² See e.g., Rural Wireless Carriers, 44, C Spire Comments, 3.

Respectfully submitted,

NTELOS Holdings Corp.

By: 

Michael Lazarus
Jessica DeSimone
TELECOMMUNICATIONS LAW
PROFESSIONALS PLLC
1025 Connecticut Avenue, NW
Suite 1011
Washington, DC 20036
Telephone: (202) 789-3120
Facsimile: (202) 789-3112

Brian J. O'Neil
NTELOS Holdings Corp.
Executive Vice President, General Counsel
and Secretary
1154 Shenandoah Village Drive
Waynesboro, VA 22980
Telephone: (540) 946-2058

Its Attorneys

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