

**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 OF VERIZON<sup>1</sup>**

Commenters agree that changes are needed to legacy Eligible Telecommunications Carrier (ETC) obligations that no longer make sense and, in many cases, are unfunded as a result of the Commission’s universal service reforms. Those reforms were critical, and they do put the fund on the right path for the future. Going forward in this proceeding, the Commission should ensure that ETC obligations are linked to USF funding and apply to providers only in those geographic areas where they receive support.

DISCUSSION

Congress created the ETC designation process in the Telecommunications Act of 1996 (the “Act”), tying ETC status to the receipt of federal universal service support.<sup>2</sup> A carrier had to be designated as an ETC in order to receive federal support and, as a condition of receiving those

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<sup>1</sup> In addition to Verizon Wireless, the Verizon companies participating in this filing are Verizon Wireless and the regulated, wholly owned subsidiaries of Verizon Communications Inc. (collectively, “Verizon”).

<sup>2</sup> See Comments of the United States Telecom Association (Aug. 8, 2014) at 19-20 (“USTelecom Comments”).

funds, the carrier was obligated to “offer the services that are supported by Federal universal service support mechanisms” throughout the service areas for which it was designated as an ETC.<sup>3</sup>

The Further Notice of Proposed Rulemaking recognizes this statutory link between ETC obligations and the receipt of universal service support and asks “how to apply this statutory framework to situations where an incumbent ... ETC no longer receives high-cost universal service support for a given geographic area or where a non-incumbent carrier has been selected for support ...” under Connect America Fund (CAF) Phase II.<sup>4</sup> The Commission recognizes that the statute can fairly be read to mean that “ETCs should be deemed to only have a federal high-cost [ETC] obligation for the areas in which they receive support.”<sup>5</sup> Commenters uniformly agree that is how Section 214 should be interpreted.<sup>6</sup>

Section 214(e)(1) provides that each ETC “shall, throughout the service area for which such designation is received ... offer the services that are *supported by Federal universal service support mechanisms* ....”<sup>7</sup> Under CAF Phase II, providers only will be eligible to receive high-cost support in certain, designated areas. Moreover, even in those areas where existing ETCs might be eligible to receive support under CAF Phase II, they may not *actually* receive any such support if a non-incumbent carrier is selected for that area through the competitive bidding

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<sup>3</sup> 47 U.S.C. §§ 214(e)(1), 254.

<sup>4</sup> *Connect America Fund; Universal Service Reform – Mobility Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing an Unified Intercarrier Compensation Regime*, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 7051, ¶ 196 (2014) (“*Notice*”).

<sup>5</sup> *Id.*, ¶ 197.

<sup>6</sup> *See, e.g.*, Comments of AT&T (Aug. 8, 2014) at 6, *et seq.*; USTelecom Comments at 20-21.

<sup>7</sup> 47 U.S.C. § 214(e)(1) (emphasis added).

process.<sup>8</sup> In those circumstances, existing ETCs cannot offer “services that are supported by Federal universal service support mechanisms”<sup>9</sup> because they are ineligible for and/or do not receive federal universal service support in those areas. Thus, the link between federal support and ETC obligations is severed “[u]nder the plain language of Section 214(e)(1),” and “those incumbent providers no longer can be required to maintain their ETC obligations in service areas for which they are no longer supported by Federal universal service support mechanisms.”<sup>10</sup>

Moreover, as a matter of “rational regulation,” commenters agree that, “if an ETC loses support, ... the ETC should not be held to future ETC obligations and reporting requirements.”<sup>11</sup> The state commissions recognize that, “once an incumbent LEC no longer receives federal high-cost support, ETC requirements associated with that support should no longer be applicable.”<sup>12</sup> Indeed, the same principle would extend to future USF support streams, and many commenters appropriately suggest that going forward ETC designations should be limited to the specific CAF program under which the provider receives support and should sunset after the funding term expires.<sup>13</sup>

The Commission already endorsed this principle in the context of another federal support program, where it rejected the notion that providers might “be required to take on unsupported ETC obligations in ... areas that may not be eligible for support or for which they may not win

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<sup>8</sup> Price cap ETCs have the option of declining legacy high-cost support. *See Notice*, ¶ 120.

<sup>9</sup> 47 U.S.C. § 214(e)(1).

<sup>10</sup> USTelecom Comments at 21.

<sup>11</sup> Comments of the Alaska Rural Coalition (Aug. 8, 2014) at 17.

<sup>12</sup> Comments of the California Public Utilities Commission, *et al.* (Aug. 8, 2014) at 10.

<sup>13</sup> Comments of the Wireless Internet Service Providers Association (Aug. 8, 2014) at 10 (“WISPA Comments”). *See also* Comments of the Utilities Telecom Council (Aug. 8, 2014) at 24 (“UTC also agrees with the proposal to sunset ETC obligations after the funding term has expired and the entity has fulfilled its build-out and public interest obligations.”).

support ...” under the Mobility Fund.<sup>14</sup> There, the Commission granted forbearance to avoid a result in which a provider could have an ETC obligation in an area where it did not receive federal support. The Commission should avoid that result here, too, and “declare that ETC designations and the corresponding ETC obligations are limited to those providers and geographic areas where a provider receives support from a universal support mechanism and, therefore, expire when a provider no longer receives support from that mechanism in that area.”<sup>15</sup>

Indeed, a recent D.C. Circuit decision compels this result. In *Sorenson Communications*, the D.C. Circuit vacated the Commission’s new speed-of-answer requirement for Video Relay Services associated with the Telecommunications Relay Services fund.<sup>16</sup> The Court held it was arbitrary and capricious to adopt such new requirements on providers without considering the cost to comply with them, rejecting the notion that providers could be required to give the fund “a free lunch.”<sup>17</sup> Likewise, here, providers should not be saddled with ETC obligations when they no longer receive the support linked to those obligations.

The *Notice* acknowledges that these ETC obligations are distinct from the more general Section 214 provisions about discontinuance of service, such that eliminating an ETC designation for federal purposes would not impact any other applicable obligations.<sup>18</sup> As one commenter put it, “[a]lthough Section 214 ... may require a voice provider to obtain authorization to discontinue service, there is no need” – nor any statutory requirement – “to

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<sup>14</sup> *Connect America Fund, et al.*, Second Report and Order, 27 FCC Rcd 7856, ¶ 15 (2012).

<sup>15</sup> USTelecom Comments at 22.

<sup>16</sup> *See Sorenson Communications, Inc. v. Federal Communications Comm’n*, 2014 U.S. App. LEXIS 16892 (D.C. Cir. 2014).

<sup>17</sup> *Id.*, \*30-31.

<sup>18</sup> *See Notice*, ¶¶ 184, 196.

maintain other [ETC] obligations” once support has ceased and the carrier has concluded participation in the program.<sup>19</sup>

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For these reasons, the Commission should tailor ETC designations and obligations only to those geographic areas where a provider receives federal support and eliminate legacy ETC obligations elsewhere.

Respectfully submitted,

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<sup>19</sup> WISPA Comments at 10.