

**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
)	

To: Wireline and Wireless Telecommunications Bureaus

REPLY COMMENTS OF THE RURAL WIRELESS ASSOCIATION, INC.

The Rural Wireless Association, Inc. (“RWA”),¹ by its attorneys, hereby replies to comments submitted in response to the Federal Communications Commission’s (“FCC” or “Commission”) *USF/CAF Omnibus Order and Further Notice of Proposed Rulemaking* (“FNPRM”) issued in the above captioned proceedings.² In particular, RWA’s reply comments pertain to the proposed new Mobility Fund Phase II rules.

I. REDUCING THE MOBILITY FUND PHASE II BUDGET AT THIS TIME WOULD IMPEDE THE COMMISSION’S UNIVERSAL SERVICE GOAL OF ENSURING MOBILITY TO ALL CONSUMERS AND PROVIDING SPECIFIC, PREDICTABLE, AND SUFFICIENT SUPPORT.

RWA supports the numerous commenting parties that oppose the Commission’s proposal to reduce the allocated \$500 million annual budget in ongoing support in Mobility Fund Phase II.

¹ RWA is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural wireless companies who serve rural consumers and consumers traveling to rural America. RWA’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RWA’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RWA’s members serves fewer than 100,000 subscribers.

² See *Connect America Fund et al.*, WC Docket No. 10-90; GN Docket No. 09-51, WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WT Docket No. 10-208, 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) (“*USF/CAF Omnibus Order and Further Notice of Proposed Rulemaking*”).

The comment record maintains that the Commission’s proposed budget reduction (to an unspecified amount) is on its face arbitrary, unfounded, and contrary to the Commission’s universal service reform goal of ensuring the universal availability of mobile voice and broadband services to all consumers, including those in rural, insular and high-cost areas.³ Section 254(b)(5) of the Communications Act of 1934, as amended (“Act”), requires the Commission to ensure that it has in place “specific, predictable, and sufficient Federal... mechanisms to preserve and advance universal service.”⁴ Randomly reducing the current budget for mobile wireless providers serving in high-cost areas is contrary to the Act and could harm the provision of vital mobile services in rural areas of the country.

RWA supports comments from CTIA – The Wireless Association® (“CTIA”) asserting that the Commission’s factual and policy bases for establishing a Mobility Fund Phase II annual budget of at least \$500 million remain sound today.⁵ Though the Commission perceives ongoing commercial deployment of 4G LTE service since 2011, some commenters note that the FNPRM dramatically overstates the level of existing mobile broadband coverage across the United States, especially in rural areas, and that the Commission’s analysis is flawed due to its reliance on mobile broadband coverage data that includes both 3G and 4G LTE networks.⁶ RWA agrees that any resizing of the Mobility Fund Phase II budget should be based on an accurate baseline.

³ See *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17674-75 ¶ 28 (2011) (*aff’d sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. May 23, 2014) (“*USF/ICC Transformation Order*”).

⁴ 47 U.S.C. § 254(b)(5).

⁵ Comments of CTIA at 5-6 (August 8, 2014).

⁶ Comments of the United States Cellular Corporation *et al.* (“Rural Wireless Carriers”) at 11-15 (detailing the discrepancies between the Commission’s objective to enable deployment of 4G LTE service but citing to sources describing existing deployments involving both 3G and 4G networks). See also Comments of Competitive Carriers Association (“CCA”) at 6-9 (referencing an ongoing study expected to demonstrate in detail how the Commission overstates the existing level of mobile broadband penetration in markets throughout the United States).

RWA also agrees that there remain areas of the country where there is no private-sector business case for the provision of affordable, high-quality mobile broadband service.⁷ It is RWA's members that serve consumers in extremely high-cost areas such as rural Alaska, Eastern New Mexico, and the Oklahoma Panhandle. These remote, sparsely populated areas include rural households and roadways and other transportation corridors, as well as farm and ranch lands, and industrial areas such as wind farms and gas and oil wells. Critical universal service funds are needed to support added deployments and maintenance of 4G LTE (and 3G) networks in these areas. Comments of Deere & Company ("Deere") further illustrate how mobile wireless broadband services remain deficient in rural cropland areas, where there is increased demand by farmers using communications-enabled equipment such as Deere's for agricultural operations.⁸ Because the Commission has presented no reliable data to support a new projection of support that will be needed to ensure universal access to mobile broadband services, RWA agrees that there is no factual basis at this time to reduce the Mobility Fund Phase II budget.⁹

Moreover, RWA agrees that the overall support budget landscape adopted by the Commission in its 2011 *USF/ICC Transformation Order* for price cap and rate-of-return incumbent local exchange carriers and the Mobility Fund represented a compromise under which wireless carriers would concede a significant loss of legacy support, especially rural CMRS carriers who relied on such support for rural operations.¹⁰ Wireless carriers that participate in either phase of the Mobility Fund have looked to the Commission's "predictable" declaration of

⁷ Comments of CTIA at 5.

⁸ Comments of Deere at 2-4 ("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").

⁹ Comments of CTIA at 6.

¹⁰ *Id.*

a \$500 million Mobility Fund Phase II budget in forming bidding strategies and setting long-term financial goals.¹¹ The Commission should not suddenly disrupt expectations of specific, predictable and sufficient long-term support in contravention of Section 254 of the Act.

Some commenters have further argued that the Commission should increase the \$500 million Mobility Fund Phase II budget in order to provide sufficient support for the growing shift by consumers from fixed service to mobile wireless service.¹² RWA agrees that mobile wireless technology is an increasingly essential platform used not only for applications such as telemedicine/telehealth, public safety, smart home, smart grid and agriculture,¹³ but also as a basic means of telephone and broadband access.¹⁴ Reliable access is especially critical in rural and rugged terrains. Cell sites (supported by universal service funds) of RWA member Copper Valley Wireless in Alaska were essential in several recent emergency rescues, including vehicle accidents on rural roads, an avalanche, a capsized boat, and an airplane crash. If the Mobility Fund Phase II reverse auction should prove to be insufficient to meet the increased demand for and reliance upon mobile wireless services in rural and remote areas, then the Commission should provide leeway to actually increase the annual \$500 million Mobility Fund Phase II budget for long-term support. At the very least, it makes zero policy sense at this time to reduce needed high-cost funding.

¹¹ *USF/ICC Transformation Order* at ¶28.

¹² Comments of Cellular South Licenses, LLC d/b/a C Spire (“C Spire”) at 6-9 and Comments of CCA at 9-14.

¹³ *Id.*

¹⁴ *Id.* (citing the Centers for Disease Control National Health Interview Survey showing that as of the second half of 2012 nearly two in every five U.S. households (or 38.2 percent) used only wireless telephones). See Stephen J. Blumberg, et al., *Wireless Substitution: State-level Estimates from the National Health Interview Survey, 2012*, NATIONAL HEALTH STATISTICS REPORTS (No. 70, Dec 18, 2013).

II. THE LETTER OF CREDIT REQUIREMENT SHOULD BE MADE LESS BURDENSOME OR ALTERNATIVELY ELIMINATED.

Comments filed by the Blooston Rural Carriers urge the Commission to reduce the irrevocable letter of credit (“LOC”) requirement or eliminate it as unduly burdensome.¹⁵ RWA agrees that most rural carriers are small businesses that lack the financial resources or the established relationships with major banks to allow them to reasonably obtain compliant LOCs, and that the process of obtaining LOCs is a burden that is compounded by the Commission’s phase-down of legacy high-cost support to cover operating expenses.¹⁶ As proposed, LOCs will need to be maintained in an amount equal to each of its Mobility Fund Phase II disbursements plus the additional performance amount. Because these amounts will cover both capital expenditures and operational expenses over a lengthy 10-year period, tying up the capital to maintain these amounts will be excessively burdensome.¹⁷ RWA urges the Commission to relax its LOC requirement (including allowing carriers to aggregate LOCs on a project basis, as RWA proposed in its comments) or alternatively eliminate the requirement all together in order to remove what amounts to a barrier to entry.

III. THE COMMISSION SHOULD REJECT THE PROPOSAL TO REQUIRE A WAIVER TO OBTAIN MOBILITY FUND PHASE II SUPPORT TO MAINTAIN 4G LTE SERVICE.

RWA unequivocally opposes the proposal raised in AT&T’s comments to (i) exclude from Mobility Fund Phase II eligibility any area covered by 4G LTE service (regardless of the identity of the service provider) and (ii) require providers that are the sole providers of mobile

¹⁵ Comments of the Blooston Rural Carriers at 11-12.

¹⁶ *Id.*

¹⁷ Though the proposed Mobility Fund Phase II rules do not yet specify how Phase II disbursements will be made nor identify the exact performance default percentage, Mobility Fund Phase I divided disbursements into one-third portions and the performance default percentage can be as high as 20 percent of the *entire* amount of authorized Mobility Fund Phase II support.

wireless service in an area to seek a waiver in order to permit such area to be deemed eligible for Mobility Fund Phase II support.¹⁸ AT&T's proposal is antithetical and not lawful to the basic principles of universal service set forth in the Act. Section 254(b)(5) of the Act requires the Commission to ensure that it has in place "specific, predictable, and sufficient Federal... mechanisms to preserve and advance universal service."¹⁹ The AT&T proposal would defy the Act's directive to preserve universal service by assuming that, as a default position, wireless providers that have deployed 4G LTE service have no continuing need for support to maintain their systems in the long term. Unlike nationwide carriers such as AT&T that could afford but choose not to serve consumers in rural areas, small and rural carriers such as RWA's members rely on universal service support to both advance and preserve service to their customers in rural and high-cost areas. Additionally, a waiver requirement to obtain access to long-term support is the very opposite of a specific and predictable universal service mechanism because the rule itself would by design block access to Mobility Fund Phase II support that is statutorily mandated to preserve and advance service. AT&T's proposal should be rejected on its face.

IV. CONCLUSION

Based on the foregoing, RWA urges the Commission not to arbitrarily reduce the \$500 million Mobility Fund Phase II budget at this time, and to simplify (if not eliminate) the letter of credit requirement. The Commission also should reject the AT&T proposal to exclude all 4G

¹⁸ Comments of AT&T at 33-35.

¹⁹ 47 U.S.C. § 254(b)(5).

LTE areas from Mobility Fund Phase II and require providers to seek a waiver to claim eligibility.

Respectfully submitted,

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