



April 13, 2016

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: NOTICE OF EX PARTE
WT Docket No. 10-208: *Universal Service Reform – Mobility Fund*
WC Docket No. 10-90: *Connect America Fund*

Dear Ms. Dortch,

The Rural Wireless Association, Inc. (“RWA”) writes to underscore the need for ongoing support for mobile wireless services in rural, high-cost areas, and to highlight some important issues that must be addressed before adopting rules for Mobility Fund Phase II (“MFII”). A number of these issues have been raised in recent docket filings, and this letter highlights certain proposals to modify the proposed MFII framework which deserve further consideration.¹

There is a continued need to support mobile communications services in rural areas. Mobile voice and broadband services are critical to public safety communications and economic development, and can help address problems such as the “digital divide” and “homework gap” that are present in rural America.² For these reasons, it is critical that the Commission craft and implement a dedicated mobility support mechanism that will provide specific, predictable, and

¹ See e.g. Letter from David LaFuria, Counsel for U.S. Cellular, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Feb. 25, 2016) (*U.S. Cellular Ex Parte*); Letter from David LaFuria, Counsel for U.S. Cellular, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Mar. 3, 2016); Letter from L. Charles Keller, Counsel for Atlantic Tele-Networks, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Feb. 29, 2016) (*ATN Ex Parte*); Letter from Douglas Minster, Vice President, Government and Regulatory Affairs, Atlantic Tele-Networks, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Mar. 14, 2016); Letter from Steven K. Berry, President & CEO, Competitive Carriers Association to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Nov. 16, 2016) (*CCA Ex Parte*); Letter from Rebecca Murphy Thompson, EVP & General Counsel, Competitive Carriers Association, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Feb. 17, 2016) (*CCA Follow Up*).

² Hearing Before the United States Senate Committee on Commerce, Science, and Transportation, *Removing Barriers to Wireless Broadband Deployment*, Testimony of Cory J. Reed, Senior Vice President, Intelligent Solutions, Deere & Company, pp. 2-3, 7 (Oct. 7, 2015) (noting that “[d]espite the remarkable nationwide growth and innovation in broadband and advanced technologies...too many rural communities in the United States lag significantly behind in access to those technologies and the extraordinary benefits that they can bring,” and that “[m]obile services, not only wireline fixed services, are essential to broadband deployment in rural and remote areas...”).

sufficient support to both advance and *sustain* the availability of mobile services in high-cost areas. Given the Mobility Fund’s great importance, the Commission must focus on getting MFII done *right*, rather than done *hastily*. To this end, the Commission should seek comment on the alternative MFII plans that have recently been submitted in the record.

MOBILITY FUND PHASE I IMPLEMENTATION PROCESSES SHOULD BE FULLY EVALUATED PRIOR TO IMPLEMENTING MOBILITY FUND PHASE II.

Because the Commission has drawn heavily from Mobility Fund Phase I (“MFI”) for its proposed MFII framework, it should carefully consider what did and did not work in MFI.³ As Commission staff and MFI recipients are aware, aspects of the post-auction implementation of MFI – buildout verification, coverage reporting, and funding disbursements – have taken significantly longer, and have proven to be much more difficult, than expected.

Based on the Universal Service Administrative Company’s (“USAC”) latest data, only \$67 million in Mobility Fund Phase I funding has been disbursed,⁴ even though the auction closed nearly three and a half years ago. Moreover, more than \$70 million of Mobility Fund I awards has been returned to the Commission as a result of consolidation and/or defaults.⁵ Delays in funding distribution are largely due to unpredictable MFI implementation processes that were not clearly delineated ahead of the MFI auction. In order to request funding disbursements, MFI recipients are required to verify their network deployments and available coverage using compliant drive test data, which is then *further* verified by USAC through a subsequent on-site validation process. Details of the Commission’s exacting coverage reporting requirements were not released until June 2014,⁶ nearly two years after the Auction 901 application deadline and over 20 months after the auction. Conforming to the Commission’s *ex post facto* requirements often gave rise to higher drive testing costs and lengthy processing delays. It has become quite clear to stakeholders that MFI implementation processes can be improved to ensure that the Mobility Fund mechanism is predictable. RWA recommends that the Commission staff solicit feedback on MFI before diving headfirst into a Phase II mechanism that risks replicating unpredictable processes.

³ *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, ¶¶1136 (Nov. 18, 2011) (“*USF/ICC Transformation Order*”) (noting that the Commission planned to “take into account [its] experience implementing Mobility Fund Phase I” in making decisions regarding maximizing consumer benefits during the implementation of MFII).

⁴ Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for Second Quarter 2016, WC Docket No. 96-45, p.10 (Feb. 1, 2016).

⁵ See *CCA Follow Up*, Attachment at p. 7.

⁶ *Guidance on Annual Reports and Other Reporting Requirements for Recipients of Support Under Phase I of the Mobility Fund (Including Tribal Mobility Fund); 2014 Annual Report Filing Deadline Extended to July 31, 2014; Specifications for Shapefile Data to be Submitted with FCC Form 690*, WT Docket No. 10-208, Public Notice, DA 14-843 (rel. June 19, 2014). The Commission’s June 19, 2014 public notice provided no details regarding the mandatory on-site validation process, which to date, has not been a matter of public record.

THE UNRELIABILITY OF FCC FORM 477 DATA MUST BE ADDRESSED.

RWA shares U.S. Cellular's concern that data and methodologies that systematically overstate mobile broadband deployment have led some to conclude that the job is largely done.⁷ The recent Eighteenth Mobile Competition Report stated that, as of January 2014, 99.9 percent of the total U.S. population lived in census blocks that were covered by at least one facilities-based mobile wireless provider.⁸ However, the *Eighteenth Report* also mentions many times that its analysis likely *overstates* the coverage experienced by consumers because of carrier-reported Mosaik data limitations.⁹ Commission staff also notes that "coverage estimates based on Form 477 data are subject to similar methodological limitations...and consequently have the potential to overstate coverage."¹⁰

Rural residents know all too well that the provision of "nationwide" mobile service often doesn't include them. The *Eighteenth Report* shows that at least 22 percent of the U.S. land area receives *no* mobile wireless broadband coverage at all.¹¹ Further, according to the 2016 Broadband Progress Report, 87% of rural Americans lack access to mobile broadband at 10 Mbps/1 Mbps.¹²

FCC Form 477 data showing mobile wireless coverage has been publicly available for some time now, and wireless carriers continue to examine that data to verify that their coverage areas are correctly depicted. RWA shares U.S. Cellular's concerns with respect to how Form 477 data depicts mobile wireless coverage throughout the U.S.¹³ Form 477 data generally shows where carriers have reported that mobile wireless coverage is available, with the assumption that the advertised speeds are available throughout an entire area at all times. As the Commission knows, there are a number of factors that impact a consumer's experience on a mobile wireless network:

- Signal strength is not constant throughout an entire cell sector.
- Signal strength is weaker at the edge of a cell site.
- Though a consumer can connect to a cell site, the connection may not be strong enough to maintain a voice call or transfer data at advertised speeds.
- Download and upload speeds are not constant throughout an entire cell sector.

⁷ *U.S. Cellular Ex Parte*, Slide presentation at p. 8.

⁸ *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*, Eighteenth Report, WT Docket No. 15-125, Chart III.A.1 at p. 25 (rel. Dec. 23, 2015) ("*Eighteenth Report*").

⁹ See e.g. *Eighteenth Report* at ¶ 34 (noting that "[i]f the center point...of a census block is within the coverage boundary of a Mosaik map, then [the Commission] consider[s] that block to be 'covered' by that provider and/or technology" and that the "coverage estimates...do not indicate the extent to which providers affirmatively offer service to residents in the covered areas."). See also e.g., *Eighteenth Report* at Chart III.A.1, Chart III.A.2, Chart III.A.3, and Chart III.A.4 at pp. 25-29.

¹⁰ *Eighteenth Report* at ¶ 35.

¹¹ *Eighteenth Report* at Chart III.A.1 at p. 25.

¹² *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. 15-191, 2016 Broadband Progress Report, FCC 16-6, ¶ 83, Table 4 (rel. Jan. 29, 2016).

¹³ *U.S. Cellular Ex Parte*, Attachment at p. 8.

- A consumer's proximity to the servicing cell site impacts the consumer's ability to connect.

These coverage/area eligibility issues should be addressed through a robust challenge process that provides all parties (not just those that are very large entities with nearly unlimited technological and personnel resources) sufficient time and opportunity to carefully review and provide input on areas determined to be both eligible and ineligible for support.

Additionally, RWA welcomes the introduction of the CostQuest Associates' paper regarding how to measure coverage and service quality in rural areas into the docket, and agrees that these issues deserve serious consideration.¹⁴ When the Commission reformed the high-cost support mechanism in 2011, it also adopted a goal of ensuring universal availability of mobile voice and broadband where Americans live, work, or travel.¹⁵ Consistent with that goal, the Commission should ensure that support for mobile networks is available in sparsely populated areas where the transportation corridors and agricultural and energy industries that support our entire nation are located. In simple terms, there should be support to sustain and deploy mobile broadband networks that provide coverage to industry-sustaining machines and equipment – not just population.¹⁶ Accurate, rather than overstated, coverage and service quality data is the first step in providing support where it is most needed.

OTHER MOBILITY FUND STAKEHOLDERS HAVE HIGHLIGHTED THE SCOPE OF THE GSM/CDMA INCOMPATIBILITY ISSUES PREVIOUSLY RAISED BY RWA.

Due to the incompatibility of GSM and CDMA networks, the Commission's proposed rules fail to ensure the availability of mobile service in areas served by *either* AT&T or Verizon 4G LTE. In its filing, U.S. Cellular correctly notes that GSM/CDMA incompatibility continues to be an important issue in many rural and remote areas.¹⁷ As RWA has previously discussed, and as discussed further below, this GSM/CDMA incompatibility issue raises serious public safety concerns.¹⁸ Alarming, the FCC's current MFII proposal will diminish access to emergency services because it would eliminate universal service support in areas where *either* AT&T or

¹⁴ See *U.S. Cellular Ex Parte*, CostQuest Associates Economic Research & Analysis, *Mobile Voice and Broadband Coverage: An analysis of Sources, Measures, and Reporting Methods* (updated January 22, 2016).

¹⁵ *USF/ICC Transformation Order* at ¶ 53.

¹⁶ See, e.g., *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*, Comments of Deere & Company, GN Docket No. 15-191, at p. i (Sept. 15, 2015) (noting that "[t]here are a number of broadband use markets, such as agricultural operations, that are simply overlooked by the Commission's current broadband deployment policies. By reviewing those areas of the economy that lack broadband access, rather than simply focusing on population-based coverage, Deere hopes that the Commission can start closing the broadband gap in rural and other underserved areas").

¹⁷ *U.S. Cellular Ex Parte*, Attachment at p. 17.

¹⁸ Letter from Anthony K. Veach, Sr. Regulatory Counsel and Erin P. Fitzgerald, Regulatory Counsel, Rural Wireless Association, Inc., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208 (Dec. 22, 2015); see also Letter from Erin P. Fitzgerald, Assistant Regulatory Counsel, Rural Wireless Association, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-208 and WC Docket No. 10-90 (Aug. 26, 2015).

Verizon provides 4G LTE service as reported on FCC Form 477.¹⁹ Despite the growing use of 4G LTE networks for mobile data services, carriers continue to rely heavily on 3G or even 2G CDMA and GSM networks to provide voice services. CDMA and GSM technologies remain incompatible with each other, which necessitates the need for both types of networks in order for all mobile consumers to be universally connected. Someone with a CDMA-only phone cannot complete a call when they are in an area served only by GSM technology, and vice-versa.

Where only AT&T or Verizon 4G LTE service is available, a USF-supported carrier may be the only mobile wireless provider serving customers using “the missing” network. For example, in an area where Verizon provides 4G LTE service, a USF-supported carrier may be the only mobile wireless provider serving GSM customers throughout that entire area (including customers roaming on AT&T or T-Mobile). Without that USF-supported network, those GSM customers would be “left in the dark” because they would be unable to connect to Verizon’s CDMA network for voice calls.

This is a serious issue because 25 percent of America’s road miles and 50 percent of its square miles lack coverage by both GSM and CDMA networks.²⁰ Denying mobility support to supported carriers where either AT&T or Verizon provides 4G LTE service has the potential to harm the public interest, particularly with respect to public safety, by jeopardizing the availability of voice and 911 services. Ongoing high cost universal service support for the provision of mobile wireless service is necessary to ensure continued voice and 911 emergency call capabilities. Eliminating mobility support as proposed could leave half of an area’s consumers without service – including access to 911, police, fire departments, and other public safety resources. This is an unacceptable result.

CONSIDERATION OF ALTERNATIVE MOBILITY FUND PROPOSALS IS WARRANTED.

At least 31.3 percent of the country’s land area and 8.3 percent of America’s road miles have only one provider of mobile service – or none at all.²¹ Both stakeholders and the Commission are struggling with whether (and how) certain areas should be prioritized over others. RWA believes that, while expansion of service is incredibly important, this expansion must not come at the expense of currently functioning networks that would not exist without high cost support. Several alternative mobility fund proposals recommend dividing the MFII budget into two separate funds – one to support capital expenditures that would expand mobile broadband coverage to completely unserved areas, and another to support existing networks that provide coverage to high-cost areas. Another proposal suggests making MFII into a state block grant program, wherein state public utility commissions that are familiar with their state’s respective coverage areas would implement the program. RWA supports further consideration of these

¹⁹ See *Connect America Fund et al.*, WC Docket No. 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, ¶ 241 (rel. June 10, 2014) (proposing to “identify areas eligible for support, i.e., areas where neither Verizon nor AT&T provide 4G LTE...”).

²⁰ *U.S. Cellular Ex Parte*, Attachment at p. 17; see also *Eighteenth Report* at p. 28, Chart III.A.3.

²¹ *Eighteenth Report* at p. 25, Chart III.A.1.

alternative proposals and additional information submitted by U.S Cellular, the Competitive Carriers Association, and others.²²

RWA SUPPORTS A SEPARATE AND DISTINCT PLAN TO PROVIDE UNIVERSAL SERVICE SUPPORT FOR MOBILE BROADBAND SERVICES IN ALASKA.

Finally, RWA supports the adoption of a separate and distinct plan that would be used to provide support for mobile broadband services in Alaska.²³ RWA members that are located in Alaska serve some of the most remote, sparsely-populated, and high-cost areas in the U.S. The Commission has previously acknowledged that Alaska carriers face “different” challenges, and thus applied different support rules.²⁴ Based on the considerable amount of support for the Alaska plan reflected in the Mobility Fund and Connect America Fund record, the Commission should move forward with a separate plan for providing support for mobile services in Alaska.

Pursuant to Section 1.1206 of the FCC’s Rules, 47 C.F.R. § 1.1206, this *ex parte* is being filed electronically with the Office of the Secretary.

Respectfully submitted,

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²² See *U.S. Cellular Ex Parte, ATN Ex Parte, and CCA Ex Parte*.

²³ See e.g., Letter from Jeffrey H. Smith, President & CEO, GNVW Consulting, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, *et. al.* (Mar. 16, 2016).

²⁴ See *USF/ICC Transformation Order* at ¶ 507 (recognizing that Alaska faces uniquely challenging operating conditions, and that solutions for other parts of the U.S. may not work in Alaska).

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