

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing an Unified Intercarrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

To: Wireless Telecommunications Bureau

**REPLY COMMENTS
OF THE
RURAL TELECOMMUNICATIONS GROUP, INC.**

**RURAL TELECOMMUNICATIONS
GROUP, INC.**

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Summary

RTG requests the FCC to move carefully and deliberately before finalizing the details of Mobility Fund Phase II, and refrain from making any final decisions until it has completed Phase I. After Auction 901, the FCC should institute a reasonable examination period of no less than six months to consider the results of Phase I, get feedback, and examine ways to improve its proposals. To this end, the FCC and interested parties should look at the accuracy of American Roamer's source maps, the on/off nature of the centroid method, and the "geographic competition" structure of Phase I to ensure that support is reaching areas that need it most.

As RTG stated in its initial comments, the FCC's driving motivation should be to ensure that rural and remote areas do not lose service or existing coverage levels. To that end, the size of the Mobility Fund should be increased to reflect consumers' ongoing migration to wireless service. The proposed public interest obligations should be scaled back to reflect the realities of rural service. The FCC should adopt a benchmark-oriented approach to coverage and extend the time-frame for meeting the public interest obligations. The Commission should modify the proposed use of road miles to include all nine categories of TIGER data. In addition, the Commission should initiate a proceeding on the merits of using a cost-model, create an auction exemption for Tier IV carriers, and allow 800 MHz carriers to utilize a "fill-in" strategy.

The Commission should place a limit on the size of package bids in order to prevent large carriers from submitting anti-competitive bids that are abnormally low. The FCC should limit participation by the large nationwide carriers and require that they refrain from blocking their customers from accessing rural networks. The Commission should also require handset and mobility device compatibility across all carrier networks because continued balkanization is at odds with universal service. To maintain integrity in the process and comply with the law, RTG supports the FCC's decision to limit auction participation to ETCs.

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To: Wireless Telecommunications Bureau

Reply Comments of the Rural Telecommunications Group, Inc.

The Rural Telecommunications Group, Inc. (“RTG”),¹ by its attorneys, hereby submits its reply comments in response to the comments filed in response to the Federal Communications

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education. RTG’s members have joined together to speed delivery of new, efficient, and innovative communications technologies to the populations of remote and underserved sections of the country. Many of RTG’s members are competitive eligible telecommunications carriers. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RTG’s members serves less than 100,000 subscribers.

Commission's ("FCC" or "Commission") Further Notice of Proposed Rulemaking ("USF NPRM") in the above-captioned proceeding.²

I. THE FCC AND THE WIRELESS INDUSTRY MUST HAVE TIME TO FULLY ANALYZE THE PHASE I AUCTION PROCEDURES AND RESULTS BEFORE ANY FINAL DECISIONS ARE MADE CONCERNING THE STRUCTURE OF PHASE II.

It would be premature to make any permanent decisions about how Mobility Fund Phase II support should be distributed before Phase I has been completed and reviewed. As RTG and other wireless commenters³ asserted in initial comments, the Commission must fully examine the results of Phase I of the Mobility Fund to avoid unintended consequences that could harm the public interest. When Auction 901⁴ commences, it will be the first time the Commission has ever conducted a reverse auction, let alone used a reverse auction mechanism for distributing universal service support. The process and results should be used to inform the Commission on how to structure the process for awarding Phase II ongoing support. If the Phase II ongoing support mechanism fails, rural mobile broadband services that already exist or that will be built out with Phase I support could also fail.

Upon the completion of the Phase I auction process, there must be a reasonable amount of time (no less than six months) for both the Commission and interested parties to examine the

² *Connect America Fund*, WC Docket No. 10-90; *A National Broadband Plan for Our Future*, GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *High-Cost Universal Service Support*, WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109; *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208; Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (Nov. 18, 2011) (*FNPRM*).

³ See Comments of RTG at 17; Comments of CTIA at 4; Comments of C Spire Wireless at 4; Comments of United States Cellular Corporation at 3-4, 6.

⁴ See *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements*, AU Docket No. 12-25, Public Notice, DA 12-121 (Feb. 2, 2012) (*Auction 901 Public Notice*).

entire Phase I process. During this examination period, the Commission should seek comments on the Phase I process and the resulting distribution of support. Interested parties should be allowed to weigh in on what worked and what did not, and make suggestions on how to improve Phase II of the Commission's Mobility Fund, taking into consideration that Phase II is designed to award replacement support for existing universal service fund ("USF") support that is being phased down. Only then should the Commission carefully and deliberately move forward to finalize the details of Phase II.

The need to review Phase I prior to initiating Phase II is especially important given the potential difficulties, highlighted in the initial comments, that the Commission must deal with in Phase I. For example, the Commission's decision to compare auction bids across all geographic areas of the country may pose many problems.⁵ Although the Commission is pursuing a more bang for the buck mission, the decision to compare auction bids across all geographic areas of the country could result in support not reaching areas that need it the most. The Commission should fully examine the results of such a "geographic competition" structure.

The Commission has proposed that "a Phase II auction may be conducted in a single round of bidding or in a multiple round format, or in multiple stages where an additional stage could follow depending upon the results of the previous stage."⁶ The Commission has indicated that it prefers a "single-round sealed bid auction format" for Mobility Fund Phase I.⁷ Whether Phase II should have one round or multiple rounds is a question that cannot be answered until the FCC and the industry analyze the single round process in Phase I and how it affects the auction

⁵ See, e.g., Comments of U.S. Cellular Corporation at 9 (explaining that using an auction that compares all bids across all geographic areas will result in areas with lower unit costs receiving the bulk of support, while eligible service areas with higher unit costs will be frozen out of funding).

⁶ *FNPRM* at ¶1155.

⁷ *Auction 901 Public Notice* at ¶10.

results. Observing Phase I will allow participants to gain valuable input on the effectiveness of a reverse auction and whether more than one bidding round should be included in Phase II.

Additionally, the Commission should expect disagreements over whether areas are eligible for support. The Commission has proposed using American Roamer data and the centroid method to identify areas where there are mobile networks that offer service, thus making such areas ineligible for Phase II support. The American Roamer data, centroid method, or any other map should not be treated as an on/off switch for whether an area is eligible or not eligible for support. There is already an outpouring from RTG's members that the source maps provided by American Roamer to the FCC are grossly inaccurate. While no map or information is always perfect or up-to-date, the American Roamer data used is not reliable.⁸ Carriers self-report the coverage information to American Roamer and it is in carriers' interest to exaggerate the level of coverage. The coverage maps developed by American Roamer are utilized by carriers in their marketing material to express coverage to their existing customers and potential customers. Most of RTG's members do not report their coverage to American Roamer nor do they use the coverage data sourced by American Roamer for their coverage maps. Instead, RTG has determined that the larger carriers, especially the nationwide carriers, are reporting their best estimate of coverage based on roaming agreements that are in place with small and rural carriers, including RTG members. Some of these estimates have been reported to American Roamer as 3G coverage when the coverage is only 2G or 2.5G. Additionally, some of these estimates are based on data that is outdated so that the FCC's interactive map depicts no 3G coverage when in

⁸ See Comments of the Blooston Rural Carriers at 18 (stating that the American Roamer data is not accurate enough to be used as the only factor for determining an area's eligibility).

fact 3G coverage has been in place for more than two years.⁹ In short, no single source of data should be dispositive.

The Commission must allow carriers to appeal a determination of whether an area is eligible or not eligible for Phase II funding. Correctly, the Commission is allowing for such a process in auction 901,¹⁰ however, the amount of time given is too brief to allow for meaningful participation in correcting the data. The short interval that rural carriers have to review and file objections (especially since the FCC has only recently released the 2012 Q1 data it intends to rely on)¹¹ is making it difficult if not impossible for carriers to protest use of the American Roamer data. A reasonable examination period following implementation of auction 901 will allow interested parties to further scrutinize the procedures of the challenge process used for Phase I and determine whether it worked as envisioned or whether it should be further refined.

II. THE MOBILITY FUND DISTRIBUTION MECHANISM AND THE PUBLIC INTEREST OBLIGATIONS THAT ATTACH TO SUPPORT SHOULD BE STRUCTURED TO HELP DEPLOYMENT OF ADVANCED MOBILE WIRELESS SERVICES TO RURAL AREAS.

A. To Prevent Harm to existing Rural Mobile Wireless Networks, the Commission Should Place Limits on the Size of Package Bids and Participation by Tier I Carriers.

The Mobility Fund Phase II support distribution mechanism should be structured to help achieve the goal of deploying advanced mobile wireless services to rural areas. In order to meet this goal, the Commission should ensure ongoing support primarily benefits existing rural networks. Ongoing support should be utilized to maintain existing networks and facilitate

⁹ The American Roamer data also does not account for 3G construction that may occur between January 1 - December 31, 2012.

¹⁰ *Auction 901 PN* at ¶19.

¹¹ *FCC Announces Steps To Close Nation's Gaps In Advanced Mobile Service Through The Mobility Fund Phase I Auction; New Interactive Map Illustrates Potentially Eligible Areas For Support*, News Release (Feb. 10, 2012).

incremental growth to 4G and beyond. As RTG explained in its initial comments, if the ongoing support mechanism is not structured to benefit existing rural networks, the Commission risks losing service in rural and remote areas or having existing coverage levels in rural areas deteriorate significantly as a result.¹² In order to ensure the Commission does not harm existing service in rural areas and ongoing support for existing rural networks, the Commission should limit the size of package bids and the participation by large nationwide carriers.¹³

The Commission proposes to identify eligible areas at the census block level and allow aggregation of census blocks for bidding purposes.¹⁴ The Commission should place a limit on the size of package bids. As pointed out in initial comments by nationwide carrier T-Mobile, because of size and resources, large carriers could submit abnormally low bids in order to prevent smaller carriers from receiving any Mobility Fund support, thereby further reducing competition.¹⁵ Rural carriers and those seeking to serve rural areas do not hold large swaths of spectrum nor do they hold licenses covering the entire U.S. as do the large nationwide carriers. Adopting limits on the size of package bids will allow for meaningful participation by rural carriers interested in serving rural areas and will help safeguard against larger carriers receiving a majority of Phase II support.¹⁶

¹² See Comments of RTG at 2-3.

¹³ RTG agrees with the Blooston Rural Carriers who request that the Commission restrict the ability of Tier I carriers ability to participate in Phase II of the Mobility Fund. Comments of Blooston Rural Carriers at 3. To further allow rural carriers to realistically compete in any reverse auction, the Blooston Rural Carriers advocate limits on package bidding. *Id.* at 12.

¹⁴ *FNPRM* at ¶1126.

¹⁵ See Comments of T-Mobile at 5.

¹⁶ C Spire Wireless asserts that “[i]f there are no limitations on package bidding, then larger carriers could have the capability to manipulate reverse auctions by packaging bids that cover extensive geographic areas. Smaller carriers participating in the reverse auctions would not have the resources to compete against this type of bidding strategy, placing them at yet another competitive disadvantage.” Comments of C Spire Wireless at 26; see also Comments of U.S. RTG Reply Comments
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The FCC should go one step further and bar the Big Two carriers who have established a wireless duopoly from receiving any Mobility Fund support. The “Big Two” (Verizon Wireless and AT&T Mobility) have over 108 million¹⁷ and 103 million¹⁸ subscribers, respectively. Given the number of subscribers each has and the nationwide pricing plans each offers, and with the length of time both have been in the mobile wireless business, it is clear that they can afford to provide service in rural areas without federal support if they so choose. Both Verizon Wireless and AT&T Mobility enjoy incredible earnings.¹⁹ Neither carrier needs a handout to serve rural markets. Instead, it has fallen on the rural carriers who live and work in these rural areas to provide service. With the inability to compete for the latest, most-desired handsets or spread costs over a large customer base, and because of reduced roaming revenue from large carriers blocking their customers’ access to rural networks (even where the larger carriers have no competing network), rural carriers have become more reliant on federal USF support to remain competitive. In addition to barring the Big Two from receiving Mobility Fund support, the FCC should provide relief to rural networks by mandating that Verizon Wireless and AT&T Mobility

Cellular at 38 (stressing that the absence of a limitation on package bidding could allow large carriers to manipulate the outcome of a reverse auction).

¹⁷ *Verizon Reports Record Revenue Growth in 4Q, Fueled by Strong Demand for Wireless, FiOS and Strategic Services*, Verizon News Release (Jan. 24, 2012), https://www22.verizon.com/investor/news_verizon_reports_record_revenue_growth_in_4q_fueled_by_strong_demand_for_wireless_fios_and_strategic.htm, last visited Feb. 9, 2012.

¹⁸ *Best-Ever Mobile Broadband Sales and Strong Cash Flows Highlight AT&T's Fourth-Quarter Results; Stock Buyback Begins on Previous 300 Million Share Authorization*, AT&T News Release (Jan. 26, 2012), <http://www.att.com/gen/press-room?pid=22304&cdvn=news&newsarticleid=33762&mapcode=corporate|financial>, last visited Feb. 9, 2012.

¹⁹ *See infra* at footnotes 14 and 15; *see also* Comments of the Blooston Rural Carriers at 3 (explaining that based on the average annual net incomes from 2008 to 2010 of \$8.5 and \$9.7 billion for Verizon Communications and AT&T, Inc., respectively, neither require federal USF support, and thus, the Commission should not allow Tier I carriers to participate in Mobility Fund Phase II).

stop the practice of blocking their customers from accessing rural carrier networks when they have no networks in rural carriers' service areas.²⁰

B. Coverage Requirements Should be Scaled Back to Reasonable Levels.

Public interest obligations of Mobility Fund support recipients should be scaled back to reflect the realities of mobile wireless networks that are deployed in rural areas. Specifically, the FCC should modify build-out and coverage requirements. Depending on how the Commission allows participants to aggregate census blocks, the Commission has stated that a support recipient could be required to provide coverage to 75 to 100 percent of the road miles in all of the unserved census blocks for which the carrier receives support. At least one other commenter, C Spire Wireless, is concerned that three years may not be sufficient time for carriers to cover 75 percent of road miles in unserved areas.²¹

In its initial comments, RTG pointed out that a 100 percent buildout requirement is unrealistic in remote areas. RTG further asserts that this is unrealistic in most rural areas.²² RTG suggested a six to eight year period to allow bidders to adjust to future unknown or unplanned situations without the risk of losing support. The Commission should consider extending the time-frame for meeting coverage requirements, especially in green field areas where existing infrastructure cannot be leveraged. The Commission should consider a scaled approach that contains coverage benchmarks that must be met. For example, C-Spire Wireless recommends a requirement that carriers attain the 75 percent coverage requirement within five years, and suggests the possibility of using an interim three-year deadline for achieving

²⁰ See Comments of RTG at 5.

²¹ Comments of C-Spire at 27.

²² Comments of RTG at 12.

deployment of 50 percent of road miles in unserved areas.²³ Such an approach would account for difficulties that often prevent carriers from meeting buildout requirements, especially in green field areas.

C. The Commission Should Create a Limited Exception to the Eligibility Requirements for Carriers that Seek to Utilize an 800 MHz Spectrum “Fill In” Strategy.

The FCC should carve out a limited Phase II exception from the requirement that entities, prior to an auction, hold a license or lease authorizing use of spectrum in the geographic areas for which support is sought. Such an exception will allow small carriers in rural areas to continue utilizing fill-in 800 MHz cellular licenses to extend wireless voice and data coverage to unserved areas. Under the 800 MHz fill-in process, carriers first identify areas that are unserved and then apply for 800 MHz spectrum licenses to provide coverage. Generally, the regulatory process for obtaining a fill-in license typically takes longer than four to six months and often involves extension agreement negotiations with existing license holders (due mostly to those licensees substantially overstating their actual coverage). Accordingly, such carriers will be effectively shut out of the Mobility Fund auction.

Many carriers using the fill-in process have been extremely effective in providing service to unserved areas. For example, in Montana, one rural carrier has constructed a wireless network covering approximately 10,000 square miles of previously unserved territory utilizing primarily the 800 MHz fill-in license process. This coverage continues to be the only mobile wireless service available to a majority of that area. Because the requirement that carriers, prior to an auction, hold a license or lease authorizing use of spectrum will unfairly preclude small rural carriers that utilize an 800 MHz fill-in strategy from being eligible to seek Phase II support, the

²³ See Comments of C Spire Wireless at 27.

Commissions should create a limited exception for carriers utilizing a fill-in strategy to serve unserved areas.

D. The Commission Should Take Other Actions to Facilitate the Deployment of Advanced Mobile Wireless Services to Rural America.

The Commission should take various other actions to help achieve the goal of bringing mobile wireless services to all areas where Americans live, work, and travel, including the adoption of roaming and mobile device interoperability requirements. Rural mobile wireless carriers understand that in order for Mobility Fund supported networks to be truly successful, the Commission must adopt a requirement granting access to roaming. As pointed out by the Blooston Rural Carriers, “roaming requirement[s]...must be made to flow in both directions, such that potential recipients of Mobility Fund Phase II support that are small or rural carriers are able to obtain roaming rights on other networks in order to compete.”²⁴

In its initial comments, RTG explained that reasonable roaming regulations would increase coverage in rural areas and decrease rural carriers’ dependency on Mobility Fund support. The Commission can immediately take another step toward achieving reasonable roaming regulations by adopting roaming requirements in conjunction with Phase II of the Mobility Fund that work to create an environment where intercarrier wholesale data roaming rates are low enough to spurn an increase in overall traffic. Small and rural carriers will then be able to generate some consistent level of roaming revenue which in turn will decrease these rural carriers’ dependency on Mobility Fund support.²⁵ In addition, by prohibiting a carrier from blocking its customers from accessing a rural carrier’s network where that rural carrier has

²⁴ Comments of the Blooston Rural Carriers at 12; *see also* Comments of RCA at 15 (stating that providing roaming on reasonable terms and conditions helps promote competition, innovation, and investment in wireless voice and data services in rural areas).

²⁵ *See* Comments of RTG at 5.

service and the other carrier has none or has poor quality service, the FCC will be able to stretch its Mobility Fund dollars to expand mobile broadband services to a greater number of rural and remote areas.

Additionally, the Commission should address interoperability issues by requiring handset and other mobile device compatibility across all carrier networks. As shown in the Comments of RCA, the lack of interoperability in the 700 MHz bands is affecting carriers' ability to plan for, secure financing for, and purchase the necessary equipment and infrastructure for building out 700 MHz Lower A Block spectrum due to a lack of interoperable devices, and therefore, will affect carriers' ability to meet Mobility Fund buildout requirements.²⁶ Next generation mobile wireless networks, especially those utilizing 700 MHz Band licenses, are currently on a path toward balkanization, where devices work on one carrier's network but not on any others, even though the networks are using the same air-interface technology. As a result of the FCC mandating device interoperability, 4G networks could be shared and a huge cost savings could be realized in rural America. One rural network would be available for all competing carriers to access when their subscribers travel to rural and remote areas. Without device interoperability, customers of non-rural carriers will not be able to access these Connect America Fund supported networks.

Finally, RTG agrees with the Blooston Rural Carriers that the Commission should modify the proposed use of road miles as a means of determining winning bidders for Phase II Mobility Fund support. In using road miles as the basis for calculating the number of units in each eligible census block for purposes of comparing winning bids and measuring the performance of Mobility Fund support recipients, the Commission should use all nine categories

²⁶ Comments of RCA at 15 – 16.

of TIGER road miles data made available by the Census Bureau. In its Phase I Mobility Fund auction, the Commission has proposed to use only the following three TIGER road categories: S1100, primary roads; S1200, secondary roads; and S1400, local and rural roads and city streets.²⁷ Limiting eligible road miles to these categories would have the effect of eliminating many unserved areas for eligibility for support. Many of the most remote rural areas in this country contain none of these road categories, yet contain many miles of roads that are travelled by those in desperate need of voice communications capability. Accordingly, to prevent a clearly unintended result and one that would harm the public interest, whereby a remote area traversed by unpaved roads is treated as “served” and therefore ineligible for support, the Commission should use all nine categories of TIGER road miles, including vehicular trails (4WD) and private roads for service vehicles.²⁸ In rural areas, vehicular trails often serve as the functional equivalent of the local, neighborhood roads, rural roads, and city streets of the S1400 category. Private roads for service vehicles are also heavily used in rural areas, and are crucial to rural economies. Examples of these are roads within private mining areas, access roads to oil and natural gas facilities, and roads that serve ranching areas and forestry and logging industries. Though privately owned, these roads have heavy traffic and are used continuously. To meet the goal of providing mobile voice and broadband to areas where Americans live, work and travel, the Commission must include in its road mile counts *all* roads that are commonly used in rural and remote areas.

²⁷ Mobility Fund Phase I Auction Scheduled for September 27, 2012; Comment Sought on Competitive Bidding Procedures for Auction 901 and Certain Program Requirements, Public Notice, AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012).

²⁸ As the Blooston Rural Carriers correctly note, “in order to be an effective bidding unit, ‘road miles’ must not be limited to main interstate roadways, but instead must also include the secondary and tertiary roadways which comprise the bulk of rural roadways and on which the majority of fatal crashes occur.”

III. THE COMMISSION SHOULD SEIZE OPPORTUNITIES TO INCREASE THE SIZE OF THE MOBILITY FUND.

Throughout the mobility fund proceeding, RTG has explained to the Commission that the Mobility Fund should be sufficiently sized in order to serve the public interest.²⁹ A much larger Mobility Fund will ensure that the FCC reaches its goal of bringing mobile voice and broadband services to areas where Americans live, work, and travel. The Commission has allocated a mere 11% of the total high-cost fund to mobile services. The decision to allocate such a small amount of support was made even though consumers are continuing to overwhelmingly choose wireless service over traditional landline service. Because consumers are ditching their conventional wireline phone connection for the ability to be mobile, RTG agrees with other commenters that the Commission should make a commitment to increase the amount of support it will make available to rural mobile wireless services.³⁰

The Commission's \$4.5 billion budget for high-cost universal service support, which is based on the size of the fiscal year 2011 high-cost fund, can be described as a "political budget." By first boxing itself in with a predetermined budget, the Commission has essentially decided to "work backwards." The Commission has picked a budget regardless of whether the amount of support will enable carriers to meet service obligations. When the Commission allocated support among various interests and technologies, mobile services received the "short end of the stick." The amount allocated to supporting the deployment of advanced mobile services does not match

²⁹ See Comments of RTG at 2 – 3, WT Docket No. 10-208 (filed Dec. 16, 2010).

³⁰ See Comments of C Spire Wireless at 21 – 22 (showing that the Commission controls the budget for universal service support, and one way it could increase the budget for mobile services is by reforming the USF contribution mechanism and making different budgetary decisions); Comments of RCA at 4 – 5 (maintaining that the FCC Order underfunds wireless ETCs and the Commission should redirect to the Mobility Fund funds unclaimed by price cap carriers pursuant to their right of first refusal).

what is needed to achieve the Commission's goal of deploying mobile service to areas where Americans live, work, and travel. The Commission should seize opportunities to increase the amount of support available for mobile wireless services. These opportunities will likely present themselves as the Commission moves forward with further reforms. One definite way the Commission can free up more support for mobile wireless services is through reform of the universal service contribution system.

As soon as possible, the Commission should begin taking steps to reform the universal service contribution rules. At the very least, the Commission should acknowledge that it will undertake an overhaul of the currently outdated contributions system. Proper reform of the contribution system will likely include contributions from purely broadband revenues. Properly reforming the universal service contribution rules will allow the FCC to free up more support and direct more support to the mobility fund. Such action makes sense because mobile wireless carriers receive a relatively small amount of funding in comparison to wireline carriers, and as consumers increasingly choose mobile wireless services over all else, mobile wireless carriers continue to contribute substantially more to the USF than they are receiving.³¹

IV. THE COMMISSION SHOULD FULLY EXAMINE THE BENEFITS OF UTILIZING A COST MODEL.

In its comments, RTG explained how to structure an auction mechanism that will be most beneficial to consumers that live, work, and travel in rural and remote areas. Many other commenters have pointed out that there may be benefits that could be achieved as a result of using a cost model for distributing Phase II support. RTG believes the Commission should more

³¹ Mobile wireless carriers contribute close to half of the total contributions to the USF, but have only been allocated 11% of the total high-cost portion of the USF. *See* Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report 2011*, CC Docket No. 98-202 (Dec. 2011).

fully examine the use of a cost model, rather than just giving it tepid consideration. In order to properly examine the pros and cons of implementing a cost model in the context of providing universal service support for rural mobile wireless services the Commission needs to initiate a separate proceeding. In a further proceeding, the Commission must provide a more robust analysis of the use of a cost model and allow it to be fully vetted.

Any cost model utilized by the Commission must take into consideration the differences between small rural carriers and large regional and nationwide carriers. Models are often based on companies with larger economies of scale in comparison to small rural wireless carriers. Any cost model that does not take these differences into consideration poses a high risk of utilizing built-in biases that favor larger carriers and do not reflect the realities of the cost of standalone rural networks. The Commission should consider not making a definite decision to use a reverse auction mechanism to distribute Phase II support until after it fully examines the possibility of using a cost model to distribute support.

Regardless of the mechanism used to distribute Phase II ongoing support, the Commission should use a cost model to craft an auction exemption for Tier IV carriers that have a committed service record in rural areas and an established need for continued high-cost support.³² Tier IV mobile wireless carriers are defined as carriers that serve less than 100,000 customers and provide service in rural and remote areas. Unlike the largest Tier I carriers, Tier

³² See Comments of Rural Telecommunications Group at 16-17 filed April 18, 2011 in *Connect America Fund*, WC Docket No. 10-90, A National Broadband Plan for Our Future, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, High-Cost Universal Service Support, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) (USF NPRM).

IV carriers have made a commitment to serve the local communities and surrounding rural areas with high-quality mobile wireless voice and data service. Tier IV carriers' commitment to rural economies and communities is demonstrated by the buildout of robust networks to a large portion of their licensed service area. It is important that the Commission keep in mind that rural mobile wireless networks were built, and are currently sustained, using high-cost support from the USF. Tier IV carriers' networks serve areas with extremely low population densities, and even the cell sites that are most heavily used have less usage than the national average. Therefore, Tier IV carriers will undoubtedly need continued USF support to ensure the operation of their networks in hard-to-serve rural areas, including those areas where an unsubsidized competitor may be providing service. Accordingly, the FCC should exempt Tier IV carriers from having to participate in Mobility Fund reverse auctions, and allow them to continue receiving support throughout their entire service area, regardless of the number of unsupported carriers that serve the area. This Tier IV "exemption support" should be based on a cost model, similar to the cost models the FCC is proposing for price cap carriers receiving support from the CAF.³³ Without continued support, most Tier IV carriers will not be able to sustain the operation of their networks, and absent these rural carriers, there will be no carriers providing much needed mobile wireless service to the most sparsely populated areas of the country.

V. ALL ASPECTS OF THE MOBILITY FUND MUST MEET THE REQUIREMENTS OF THE COMMUNICATIONS ACT.

A. The Commission Should Address the Problems With Comparing Bids Across All Geographic Areas.

As detailed above, and in the comments of US Cellular Corporation and T-Mobile, the Commission's decision to compare auction bids across all geographic areas of the country is

³³ See *USF/ICC Transformation Order* at ¶162.

problematic. Structuring a reverse auction mechanism in such a way that bids are compared across all geographic areas will have the effect of discriminating against areas that need higher support levels than other areas. As a result, some rural areas will not receive support because they are extremely high-cost areas. Meanwhile, lower cost regions would receive support simply because less support is needed in comparison to higher cost regions in other areas of the country. Such a mechanism puts the highest cost regions of the country at a distinct disadvantage.

Distributing support from a mechanism that compares all bids across all geographic areas runs afoul of the Communications Act. Section 254(b)(5) requires that there “be specific, predictable and sufficient Federal...mechanisms to preserve and advance universal service.”³⁴ The auction structure contemplated by the FCC does not meet these standards because what is sufficient in one geographic area is not sufficient in another, resulting in areas that need more support receiving none. A carrier bidding on an area might have no idea what it costs to serve other regions in other parts of the country. This introduces an element of unpredictability into the FCC’s auction mechanism since a rational bid in one part of the country will be arbitrarily affected by bids in unrelated regions of the country. The FCC’s mechanism will not be providing rational and exact support, it will instead be setting an artificial and inexact support floor based on the lowest estimated cost to provide service in the country. The Commission must take steps to ensure that it structures the Phase II distribution mechanism in a way that ensures sufficient support for mobile wireless services in all geographic areas as required by the Communications Act. Accordingly, the FCC must not compare unrelated bids across the country.

³⁴ 47 U.S.C. § 254(b)(5).

B. Allowing Non-ETCs to Participate in the Mobility Fund is Inconsistent with the ETC Requirements in the Communications Act.

There continue to be proposals concerning the Commission's ability to designate carriers as ETCs and participate in Phase II of the Mobility Fund. For example, Clearwire proposes that the Commission designate unclassified mobile broadband providers as ETCs on a nationwide basis.³⁵ Clearwire characterizes the ETC designation process as "costly and time consuming for both the applicant and for the FCC."³⁶ RTG asserts that unclassified mobile broadband providers do not meet the conditions of the Act for designation as ETCs. Further, the ETC designation process, however time-consuming, has been put in place to ensure public money is used in accordance with the public interest as intended. RTG points out that the *USF/ICC Transformation Order* did not disturb the system currently in place for designating and monitoring ETCs.³⁷

A carrier must be designated as an ETC pursuant to the Communications Act in order to receive Mobility Fund Phase II support. As RTG has explained throughout the entirety of the USF reform proceeding, the FCC lacks the authority to provide support from Phase II of the Mobility Fund or any other Connect America Fund mechanism to non-ETCs.³⁸ Section 254(e) of the Act establishes the general eligibility requirement for receipt of universal service support: "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support."³⁹ Section 214(e)(1) declares that "[a] common carrier designated as an eligible telecommunications carrier under [Section 214(e)]

³⁵ See Comments of Clearwire at 6-9.

³⁶ *Id.* at 9.

³⁷ See *USF/ICC Transformation Order* at ¶¶15, 31.

³⁸ See Comments of RTG at 18.

³⁹ 47 U.S.C. § 254(e).

shall be eligible to receive universal service support in accordance with section 254...⁴⁰ The Act does not contemplate designating unclassified mobile broadband providers as ETCs because they do not meet the requirements that ETCs be “telecommunications” carriers and “common carriers.”⁴¹ Pursuant to Section 214(e)(2) of the Communications Act, state commissions have the primary role in designating ETCs.⁴² Only when a state commission has refused to exercise jurisdiction over a carrier does the FCC have the authority to designate a carrier as an ETC.⁴³ The Act does not contemplate granting ETC status on a nationwide-basis. For these reasons, the Commission should reject proposals that support designating unclassified broadband providers as ETCs on a nationwide basis, or encourage making non-ETCs eligible for participation in Phase II of the Mobility Fund.

VI. CONCLUSION.

The Commission and the wireless industry need to fully examine the results of Phase I of the Mobility Fund upon its completion. There is too much at stake in rural America to proceed with haste. If the Phase II ongoing support mechanism fails, mobile broadband services that already exist and those networks that will be built out with Phase I support could also fail. RTG

⁴⁰ 47 U.S.C. § 214(e)(1).

⁴¹ 47 U.S.C. § 214(e)(1).

⁴² 47 U.S.C. § 214(e)(2).

⁴³ 47 U.S.C. § 214(e)(5).

urges the Commission to continue working with the wireless industry to craft a successful mechanism for distributing ongoing support for mobile wireless.

Respectfully submitted,

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