

June 25, 2013

VIA ELECTRONIC FILING

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

Re: Notice of Ex Parte Presentation - WC Docket Nos. 10-90, 05-337 and WT Docket No. 10-208

Madam Secretary:

On June 24, 2013, Eric Woody of Union Wireless; Jonathan Foxman and Julia Tanner of MTPCS, LLC d/b/a Cellular One; and Slayton Stewart of Carolina West Wireless, Inc. (collectively, the "Parties"), along with undersigned counsel, met with Priscilla Delgado Argeris in the Office of Commissioner Jessica Rosenworcel to discuss issues related to the design and implementation of Mobility Fund Phase II.

The enclosed slides distributed at the meetings formed the basis of the discussion, which revolved around the Commission's three core principles for Phase II funding: (1) preventing loss of existing service in rural areas; (2) expanding services to new and unserved areas; and (3) upgrading as many rural areas as possible to broadband.

The Parties raised several issues regarding the implementation of Mobility Fund Phase II. In particular, Phase II funding should be targeted to areas that lack 4G service. Given the rapid expansion of 4G in urban areas across the country, establishing 4G as the threshold level of service for Phase II is consistent with the Commission's stated goal to provide rural areas with a level of service comparable to what is available in urban areas.

Devoting long-term government funding for "yesterday's 3G technology" is not an efficient use of scarce Universal Service Fund resources. The Parties pointed out that 3G equipment is becoming harder to obtain for their networks. Moreover, rural customers are demanding 4G speeds in order to take full advantage of modern 4G smartphones, which are widely available and dropping in price. The Parties also explained that next generation 911 services ("NG911") will require 4G networks and funding 4G for Phase II will yield substantial public safety benefits as NG911 becomes widely deployed.

The Commission must permit census blocks that received Phase I funding to be eligible for Phase II funding. Phase I funding has been critical to building infrastructure in eligible rural

areas. If the Commission decides to make Phase I areas ineligible, some networks constructed with “one time” funding will face substantial challenges, while others may not be upgraded to 4G. Some carriers that were successful in the Phase I auction may have to withdraw Phase I bids if they are not permitted to compete for Phase II funding in these same areas.

With respect to the term of support for Mobility Fund Phase II, a ten-year term is important to provide carriers with the necessary predictability and consistency of support needed to deploy and operate robust 4G networks. In addition, banks prefer a ten-year term of support, as evidenced by a recent letter to the Commission from CoBank, submitted in Docket 10-90. A ten year term is more closely aligned with the useful life of equipment. The Parties were not supportive of suggestions by FCC staff that if a five-year term is adopted, auction bidders can simply design their five-year bids with a ten-year term in mind. Such an approach would create bidding distortions and disserve rural consumers as a result.

Finally, the Parties expressed their concern that some unserved rural areas have been particularly difficult to cover because the Parties have encountered tower siting and co-location issues on lands controlled by the federal government. The Parties asked that the Commission initiate an inter-agency dialogue between the FCC and other relevant agencies (*e.g.*, the U.S. Department of Interior's National Park Service and the U.S. Department of Agriculture's U.S. Forest Service) in order to facilitate tower construction and equipment co-locations on areas controlled by the federal government.

Respectfully submitted,



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and Carolina West Wireless, Inc.*

Enclosure

cc: Priscilla Delgado Argeris

Mobility Fund Phase II Rulemaking

FCC Ex Parte Meetings

June 24, 2013

WC Docket No. 10-90 and 05-337
WT Docket No. 10-208

Promoting the FCC's Three Core Goals in Phase II

1. Prevent Loss of Existing Service in Rural Areas

- To prevent carriers from decommissioning facilities, existing ETCs must be able to fund operating expenses going forward.
- Keeping the last two years of phase down in effect for all census blocks not won at Phase II auction enables carriers to transition more smoothly without the “flash cut” that the FCC talked about avoiding in the broadband plan.
- Helps to solve the issue that small carriers have previously noted – that the area won at auction is often much smaller than the total rural area being served by the carrier, a mix of eligible/ineligible areas.

Promoting the FCC's Three Core Goals in Phase II

2. Expand Services to New and Unserved Areas

- Service availability on carrier coverage maps submitted to Mosaik significantly overstates coverage. Many areas have downlink but not uplink capability.
- Mosaik data should be made available to carriers for purposes of the challenge process, and the associated data and maps should be updated to reflect changes resulting from corrections.
- Excluding areas served by VZW, ATT, and Sprint based on propagation model incorrectly presumes high-quality service available in many rural areas without a subsidy.

Promoting the FCC's Three Core Goals in Phase II

2. Expand Services to New and Unserved Areas

- Categorically declare that any area that was funded in Phase I is eligible for Phase II support.
- In disputed areas, place the burden on carriers to demonstrate that an area should be blocked off from Phase II auction - provide clear standards and a high burden of proof.
- For example, carriers should be required to demonstrate “unsubsidized coverage” using the FCC’s post-auction drive testing requirements.

Promoting the FCC's Three Core Goals in Phase II

3. Upgrade As Many Rural Areas to Broadband As Possible

- Expanding the map in Phase II is imperative to advancing broadband.
- Eligible areas should be those that do not have 4/1 mobile broadband coverage.
- Lowering standards to 3G is absolutely the wrong direction.

Promoting the FCC's Three Core Goals in Phase II

3. Upgrade As Many Rural Areas to Broadband As Possible

- Why would government fund yesterday's technology – 3G – for five or more years?
- Will it be FCC policy that a rural area gets funding for 3G from 2015-2020, with no other carrier eligible for support to provide 4G?
- Any census block that was funded in Phase I should be made eligible for Phase II to ensure 4G service.

Other Issues for Consideration

1. Funding for Five Years Instead of Ten

- Five year funding period is much less than the useful life of the plant.
- Financing build outs with five year loan terms will be difficult.
- Auction process allows carriers to increase bid amounts, to cover opex beyond five years, at the risk of losing at auction.
 - This is not an optimal approach.
 - Can create distortions.

Other Issues for Consideration

1. Funding for Five Years Instead of Ten

- Rules and bid structures should encourage bids that match the time that exclusive funding will be available.
- Some argue that a five-year funding term would correlate with the rapid evolution of wireless technology.
 - In fact, areas in the most need of Phase II support generally respond to changes in technology slower than urban areas.
 - Rural areas, therefore, would be better served by a 10-year term of support.

Other Issues for Consideration

2. Letter of Credit

- Letter of credit (LoC) is burdensome for small carriers.
- LoCs are difficult for small carriers to obtain, because, for example, they don't have ongoing business relationships with banks that are approved for LoC purposes.
- Ties up limited credit facilities that can no longer be used for investment.

Other Issues for Consideration

2. Letter of Credit

- Constrains investment and economic development in rural areas.
- In a performance default, the threat of loss of ETC status, eligibility to participate in future auctions, and even FCC license, ensures performance.
- Costs of LoC and related opinion letters have been extraordinary in Phase I.

Other Issues for Consideration

3. Demonstration of Coverage

- Road miles are preferable.
 - Using road miles is the best proxy for areas where consumers are likely to use their mobile devices.
 - Easier to drive test.
 - Carriers already have protocols in place to test and measure.

Other Issues for Consideration

3. Demonstration of Coverage

- Using population coverage is not preferable.
 - Determining population coverage within census tracts/blocks is difficult.
 - Developing a testing protocol to measure coverage at residences is difficult.
 - Physically reaching some residences to measure is difficult.

Other Issues for Consideration

4. Inter-Agency Assistance

- Some unserved areas have been difficult to cover due to locations on areas controlled by federal government, such as Forest Service or Park Service.
- Inter-agency dialogue is needed to streamline access will enable carriers to bid with more confidence that an area can be built out within the applicable time frame.

Other Issues for Consideration

5. Public Commitment Rule

- Drop the rule that says if you make a public commitment to build, then an area is ineligible.
 - Business plans change.
 - Executive statements should not form the basis for eligibility.
 - Defining what is a commitment and where it applies exactly can be very difficult to enforce.

Other Issues for Consideration

6. A Cost Model Should Be Used Instead of an Auction

- Reverse auctions have numerous disadvantages.
 - Reduce incentives to enhance service quality.
 - Hamper carriers' access to private investment.
 - Provide incentives for anti-competitive conduct.
 - Harm consumers in rural areas by failing to deliver support to areas with the greatest need for assistance.

Other Issues for Consideration

6. A Cost Model Should Be Used Instead of an Auction

- Use of a cost model is a better approach.
 - FCC itself has concluded that forward-looking costs best approximate costs an efficient carrier would incur.
 - Promotes fiscal responsibility.
 - Creates market certainty and incentives for investment.
 - A cost model can be adjusted – either upward or downward -- to address changing circumstances.
 - Competitively and technologically neutral.

Other Issues for Consideration

7. Right of First Refusal in Price Cap Areas Must Be Reversed

- Permitting ILECs to use 4G to build out rural areas, based on the cost of building a wireline network, is a misguided policy.
 - Amounts to an identical support rule, without competition.
 - Will give ILECs a potentially large windfall.
- No valid public policy reason ever articulated to allow large price cap carriers to have five year monopoly on support with identical support in effect.

Other Issues for Consideration

7. Right of First Refusal in Price Cap Areas Must Be Reversed

- RoFR fails virtually all of the core principles articulated in Section 254.
- Accelerate broadband deployment by reversing RoFR and allowing wireless to bid in price cap areas immediately.