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	)	WC Docket No. 07-135
Local Exchange Carriers	)	
	)	
Developing a Unified Intercarrier	)	CC Docket No. 01-92
Compensation Regime	)	

COMMENTS OF CELLULAR SOUTH LICENSES, LLC D/B/A C SPIRE

David L. Nace
David A. LaFuria
Steven M. Chernoff
Robert S. Koppel

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678

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SUMMARY

Congress commanded the FCC to ensure that citizens living in rural areas have access to advanced telecommunications and information services that are reasonably comparable to those living in urban areas. Cutting support to wireless carriers, at a time when the demand for 4G LTE services, improved coverage, public safety, and economic development in rural areas are all soaring, is counterproductive. It would also defy logic and fairness given the disproportionate share of contributions paid into the USF by wireless consumers.

As its first order of business, the Commission should ensure that there is sufficient support to permit investments in broadband wireless infrastructure in rural areas, as well as support for operating expenses of existing facilities in high-cost areas. In addition, the Commission should be looking for ways to increase the overall size of the Mobility Fund, in recognition of the fact that mobile broadband is not widely available in rural areas, and because the public safety and economic development benefits of mobile broadband are critical to the well-being of rural citizens.

The Commission should preserve the existing phase-down plan for legacy support without any acceleration or early shut-off. Existing support levels (60% of baseline support) should be maintained, and the phase-down should be resumed only after Mobility Fund Phase II funding is awarded. This is essential so that carriers can maintain service to their customers during the transition to whatever Mobility Fund Phase II support mechanism the Commission adopts. Should the Commission decide that a “one percent” cut-off is appropriate, any such rule should be structured in a way that avoids unintended disruptions in support to small carriers.

Mobility Fund Phase II support should be increased. Its current size is insufficient to the task of deploying mobile broadband service in rural areas where it is needed most. The support should not be reduced or partly reallocated to CAF Phase II for wireline carriers. Nor should any portion be reallocated to Remote Areas Funding or to a second round of one-time Mobility Fund Phase I.

C Spire supports the Commission’s proposal to authorize Mobility Fund Phase II recipients to receive support for a 10-year term. Also, C Spire supports the Commission’s previous proposal to distribute Mobility Fund Phase II funds so as to maximize the road miles covered.

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COMMENTS OF CELLULAR SOUTH LICENSES, LLC D/B/A C SPIRE

Cellular South Licenses, LLC d/b/a C Spire ("C Spire"), by its counsel, hereby submits these Comments in response to the Commission's Further Notice of Proposed Rulemaking ("*FNPRM*") in the above-captioned proceeding.[1]

[1] *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *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, 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), 79 Fed. Reg. 39164 (July 9, 2014) ("*Report and Order*" and "*FNPRM*"). The *Report and Order* and *Further Notice* continue implementation of universal service reforms adopted by the Commission in 2011. *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, 26 FCC Rcd 17663 (2011) ("*CAF*

Congress commanded the FCC to ensure that citizens living in rural areas have access to advanced telecommunications and information services that are reasonably comparable to those living in urban areas. 47 U.S.C. §254(b)(3). Cutting support to wireless carriers, at a time when the demand for 4G LTE services, improved coverage, public safety, and economic development in rural areas are all soaring, is counterproductive. As its first order of business, the Commission should ensure that there is sufficient support to permit investments in broadband wireless infrastructure in rural areas, as well as support for operating expenses of existing facilities in high-cost areas. In addition, the Commission should be looking for ways to increase the overall size of the Mobility Fund, in recognition of the fact that mobile broadband is not widely available in rural areas, and because the public safety and economic development benefits of mobile broadband are critical to the well-being of rural citizens.

The Commission's existing plans for Mobility Fund Phase II are not adequate to the task, yet the current proposal is to scale back even these modest plans. This would be a mistake. With no evidentiary record, the Commission is prepared to reduce the level of support to rural areas, threatening existing networks that are providing much needed service to rural citizens. Companies such as C Spire have invested legacy support over many years to fulfill the Commission's objective to bring high-quality service to areas that would not otherwise see such investments. The Commission should be providing adequate support, incentives, and accountability measures to accelerate investments in our nation's rural areas, so that rural citizens receive the benefits that Congress intended them to have, and commensurate with the contributions that wireless consumers are making to the fund.

Order" and "*CAF Further Notice*"), *aff'd sub nom. In re FCC 11-161*, 703 F.3d 1015 (10th Cir. May 23, 2014).

Lastly, any proposal to redirect Mobility Fund Phase II support to another round of one-time Mobility Phase I funding, or to CAF Phase II, would be an unwise departure from the Commission's sound plans to provide ongoing funding for deploying wireless broadband service in rural areas. Therefore, these proposed changes should be rejected.

I. LEGACY SUPPORT

The Commission should preserve the existing phase-down plan for legacy support without any acceleration or early shut-off. Existing support levels (60% of baseline support) should be maintained, and the phase-down should be resumed only after Mobility Fund Phase II funding is awarded.

A. Legacy Support Levels Should Be Maintained Until the Support is Awarded.

C Spire submits that the Commission should maintain existing support levels (60% of baseline support) until, (1) the first month after the month in which the competitive ETC's Mobility Fund Phase II ongoing support is authorized (in the case of a winning Phase II bidder) or (2) the first month after the month in which a Public Notice announce an award of Phase II ongoing support (in the case of a competitive ETC that is not a winning bidder).[2] It is essential that the Commission maintain ongoing support at the current frozen levels so that carriers can maintain service to their customers during the transition to whatever Mobility Fund Phase II support mechanism the Commission adopts.

The Commission seeks comment on whether it should resume the phase-down upon adopting of rules establishing the framework for Phase II. C Spire strongly opposes this. Once the Commission adopts Phase II rules, it is likely that a substantial amount of time will pass

[2] *FNPRM* at para. 252.

before the competitive bidding process is completed. Among other things, it will take time for the Commission to establish the bidding rules, and the actual implementation of any order adopted in response to this *FNPRM* could be delayed by a court challenge.

B. If Adopted, the "One Percent Rule" Should be Carefully Tailored.

C Spire does not support the establishment of a percentage threshold or other mechanism for accelerating the reduction of legacy support. Given the large task of driving broadband-capable infrastructure investment into unserved and underserved rural areas, it would be unwise to disrupt the support that competitive ETCs depend on for building wireless infrastructure and providing ongoing service to rural communities.

To avoid unintended disruptions in support to small carriers, C Spire proposes that any "one percent rule" be structured in a way that measures legacy support and revenues at the holding company level but includes only the legacy support and revenues of wireless ETC affiliates. Any such rule should define "total revenues" as total revenues received from wireless service provided to end users.

Such a definition of "total revenues" would fulfill the Commission's stated objective of identifying carriers whose support is such a "tiny fraction" of its total revenues that it is "not relying on such support to maintain existing service."[3] Revenues from non-ETC affiliates should not be included because these revenues are used for non-ETC purposes.

For similar reasons, revenues from resellers should not be included, because legacy support is used for the construction, operation and maintenance of facilities that serve end user customers. Revenues from wholesale "carrier's carrier" services are not relevant to the required

[3] *Id.* at para. 253.

level of expenditures for the provision of service to end users. Also, revenues from equipment sales and other non-telecommunications services should not be included either. These are clearly outside the scope of the intended use of legacy support.

II. MOBILITY FUND PHASE II

A. Mobility Fund Phase II Should Provide Sufficient Support to Preserve and Extend Mobile Broadband in Rural Areas.

Targeting Mobility Fund Phase II support to pursue dual objectives—support for both ongoing operations and deployment of advanced telecommunications and information service networks—is consistent with the Commission's statutory mandate and its own policies. Section 254(b) of the Communications Act of 1934 ("Act") establishes the principle that the Commission must adopt policies for the "preservation and advancement of universal service"[4] and Section 254(b)(5) of the Act establishes the principle that there should be "sufficient … mechanisms to preserve and advance universal service."[5] Support must be sufficient to ensure that rural citizens have access to services that are reasonably comparable in quality and price to those available in urban areas.[6]

In order to be effective, the Commission must accurately identify areas in which mobile broadband service is not available. An accurate map would show that large portions of rural America lack access to mobile broadband service, and even larger portions lack access to 4G LTE service. The Commission does not now have adequate information to accurately identify such unserved areas. The National Broadband Map does not accurately depict the state of mobile

[4] 47 U.S.C. § 254(b).

[5] 47 U.S.C. § 254(b)(5).

[6] 47 U.S.C. § 254(b)(3).

broadband in rural America. Indeed, the Commission admits that current data overstates coverage, because the data is derived, at least in part, from carrier advertising maps provided to a private company.[7]

In October, the Commission will begin collecting data on FCC Form 477, which should begin to provide more accurate data on where mobile broadband service is actually available. Until that data has been collected, analyzed, and made available to the public, there is no basis whatsoever to reduce or reassign Mobility Fund Phase II support. Moreover, because Form 477 data provides information on customer locations, it is unclear how useful that will be in determining the quality of service on rural roads.

Auction 901 demonstrated that demand for support for mobile broadband far exceeds the funding which the Commission made available, and there is every reason to believe that Phase II demand for support for 4G LTE mobile services will be even greater. In view of all of the above, the Commission lacks any empirical basis to reduce Mobility Fund Phase II support.[8]

B. Sufficient Support Must Be Provided for Wireless Carriers to Maintain and Operate Existing Networks in Rural Areas.

C Spire urges the Commission to increase the $500 million annual budget for Mobility Fund Phase II. There is a very large unmet need for high-quality coverage and mobile broadband in rural areas, and satisfying this need will require significant investment. As the

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[7] *See Further Notice* at para. 238 n.436 ('"The *16th Competition Report* notes that the mobile broadband coverage analysis 'likely overstates the coverage actually experienced by consumers, however, because Mosaik Solutions, LLC reports advertised coverage as reported to it by many mobile wireless service providers, each of which uses a different definition or determination of coverage.'") *See also Modernizing the FCC Form 477 Data Program*, WC Docket No. 11-10, Report and Order, FCC 13-87 at para. 27 (rel. June 27, 2013) ("*Form 477 Modernization Order*").

[8] *See FNPRM* at para. 238. We note that the Commission cited no evidence to substantiate AT&T's and Verizon's claimed network coverage.

FNPRM recognizes, demand for available funding far exceeded the supply of such funding in Phase I.[9]

Consumers increasingly are shifting away from fixed service to mobile service. For example, a recent Pew Research study showed that more than one-third of Internet users rely on their mobile phones as their primary means to access the Internet.[10] FCC support for mobile services should reflect this shift. Similarly, a recent Centers for Disease Control study showed that 38.2% of U.S. household used only wireless phones as of the second half of 2012.[11]

Mobile wireless technology is also proving an essential platform for telemedicine[12] and telehealth[13] applications around the country.[14] C Spire recently joined in forming a telehealth program in partnership with the University of Mississippi Medical Center ("UMMC") and other health care organizations.[15] Using C Spire's wireless network, the program will enable patients in the Mississippi Delta to have timely access to clinical service providers remotely from their

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[9] FNPRM at para. 241.

[10] Pew Research Internet Project, Cell Internet Use 2013, Maeve Duggan and Aaron Smith (Sept. 16, 2013).

[11] National Health Statistics Report No. 70, Wireless Substitution: State-level Estimates from the National Health Interview Survey, Stephen J. Blumberg, et. al., (Dec. 18, 2013).

[12] Telemedicine is the use of electronic communications and information technologies to provide clinical services when the doctor and patient are in different locations. Source: American Telemedicine Association website at http://www.americantelemed.org/about-telemedicine/what-is-telemedicine#.U-TqgaPD-1s

[13] Telehealth connotes a broader use of technologies to support healthcare services, including video conferencing, transmission of still images, e-health including patient portals, remote monitoring of vital signs, continuing medical education and nursing call centers. *Id.*

[14] Benefits of Telemedicine in Remote Communities & Use of Mobile and Wireless Platforms in Healthcare, Alexander Vo PhD, G Byron Brooks MD EE, Ralph Farr, and Ben Raimer MD, University of Texas Medical Branch, available at http://telehealth.utmb.edu/presentations/Benefits_Of_Telemedicine.pdf

[15] 'New Telehealth Program Assists Diabetes Patients in Delta,' UMUC Press Release (Jan. 23, 2014), available at http://www.umc.edu/News_and_Publications/Press_Release/2014-01-23-00_DIABETES_TELEHEALTH_NETWORK.aspx

homes.[16] Patients will have Internet-capable tablets that will allow them to provide critical information to clinicians, who can use that information to adjust medical care or schedule calls or video chats as needed.[17]

Funding for mobile service should reflect the increasing importance of such service to consumers. Once facilities are constructed in rural and high-cost areas, there must be sufficient support for carriers to maintain and operate those facilities. Any further reduction could well result in carriers decommissioning existing facilities—thereby *reducing* mobile broadband services in some rural areas. It will not serve the public interest to have carriers decommission some of the very same facilities that these carriers were initially able to deploy because of the availability of USF support. For this reason, the Commission should retain and enhance its plan for Mobility Fund Phase II to provide "ongoing support for mobile services in areas where such support is needed."[18]

The $500 million budget, a fraction of the support dedicated to wireline carriers by the *CAF Order*, already represents a significant reduction in recent support for mobile services. It is also grossly out of proportion to the role wireless carriers and their customers play as the largest source of USF contributions. While support earmarked for wireline carriers constitutes 41 percent of the overall budget, USF contributions from incumbent LECs amount to just 22% of total contributions. Meanwhile, mobile wireless support amounts to just 11 percent, but wireless carriers and their customers contribute 44% of total USF funds.[19] The budget for ongoing

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[16] *Id.*

[17] *Id.*

[18] *CAF Order* at para. 493.

[19] U.S. Gov't Accountability Office, *FCC Should Improve the Accountability and Transparency of High-Cost Program Funding*, GAO-14-857 (July 2014) at 16.

wireless broadband funding should reflect both the importance of wireless service to society, but also the fact that the USF itself is primarily funded by wireless consumers. Basic fairness demands that funds arising from wireless service should be proportionately invested in enhancing the availability of wireless service.

C. The Commission Should Adopt Its Proposal To Authorize Mobility Fund Phase II Support for a Ten-Year Term, but C Spire Does Not Support Reverse Auctions.

C Spire supports the Commission's proposal to authorize Mobility Fund Phase II recipients to receive support for a 10-year term.[20] A shorter term would be counterproductive as smaller wireless carriers would find it difficult to raise capital to be used in satisfying the Commission's network deployment obligations.

C Spire opposes the use of reverse auctions to distribute support because auctions virtually guarantee that rural Americans will ***not*** have access to services that are reasonably comparable to those in urban areas. A reverse auction is a government-directed investment plan that will deliver a patchwork of incompatible technologies throughout rural America. Any one citizen currently has access to only 50 percent of the total network deployed nationwide (assuming GSM/CDMA are split evenly). So unless a rural consumer can afford to carry two phones, she will drive around rural America with service in some areas, but not others, while urban counterparts will enjoy networks that provide coverage throughout a community and surrounding areas.

C Spire also notes that Section 54.1018(b), as originally proposed in the *CAF Further Notice*, provided that winning bidders would be authorized to receive Mobility Fund Phase II

[20] *Further Notice*, App. B, proposed Section 54.1018(b) of the Commission's Rules.

support on a quarterly basis for a 10-year term.[21] The revised version of proposed Section 54.1018(b) in the *FNPRM*, however, does not specify a quarterly or other periodic disbursement schedule. The Commission should clarify its intent regarding the schedule for Phase II disbursements.

D. The Commission Should Disburse Mobility Fund Phase II Support To Maximize the Road Miles Covered.

The *FNPRM* makes reference to the Commission's previous proposal to distribute Mobility Fund Phase II funds so as to maximize the road miles covered.[22] C Spire supports this proposal; requiring additional coverage of road miles directly reflects the objective of the Mobility Fund to extend *mobile* services in particular. Moreover, basing support on road miles takes into account other important factors, notably the provision of emergency services, and also including services to business locations, recreation areas, and work sites that are accessed by roads.

E. Reallocating Mobility Fund Phase II Support to Other Programs Would Leave Wireless Carriers with Insufficient Support to Achieve the Commission's Objectives.

The Commission has advanced several proposals involving the reallocation of Mobility Fund Phase II support to other mechanisms. While those programs have worthy objectives, there is no justification for using Mobility Fund Phase II support for purposes other than those originally adopted by the Commission.

As C Spire has discussed, the existing budget for Mobility Fund Phase II is already insufficient for carrying out the mission of deploying mobile broadband service to rural areas

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[21] *CAF Further Notice*, 26 FCC Rcd at 18236.

[22] *FNPRM* at para. 241 n. 443 (citing *CAF Further Notice*, 26 FCC Rcd at 18073 (para. 1134)).

that need it. The share of support allocated for mobile wireless is many times less the share wireless carriers and their customers pay into the system. Given the existing imbalance between wireless contributions and wireless funding, it would defy logic and notions of fairness to take a portion of this already inadequate budget and shift it to purposes unrelated to wireless service.

Mobility Fund Phase II support should not be reallocated to CAF Phase II. Reserving CAF Phase II support exclusively for price cap incumbents, while making far less support available to wireless carriers, harms rural areas by perpetuating the gross imbalance between price cap funding and competitive funding. Price cap carriers have already received an outsize percentage of high-cost support – 28.6 percent in 2012. In contrast to CETCs, whose legacy support began its 20% annual phase down more than two years ago, price cap carriers' legacy support has been "frozen" (*i.e.*, preserved at a 100% level) for the last 2 ½ years and will not be reduced until they either elect or decline to receive CAF Phase II support.

The Commission should reject any suggestion that shifting Mobility Fund Phase II support to CAF Phase II will leave wireless carriers in the same position. Mobility Fund Phase II is dedicated to providing funds for the explicit purpose of supporting deployment of 4G LTE by mobile wireless competitive ETCs. This is fundamentally different from merely having an opportunity to compete for a pool of funds that is also available to price cap incumbents and other service providers. If support is moved from the Mobility Fund Phase II budget to CAF Phase II, it is far less likely that it will be used for mobile broadband deployment in rural areas.

As noted above, mobile services offer customers much greater flexibility than fixed services. The FCC should not now re-allocate already limited Mobility Fund Phase II support to the much better funded CAF, with the inevitable result being a further erosion of support for mobile broadband services. Such erosion is virtually assured by the structure of CAF Phase II, which gives incumbent price cap carriers the ability to obtain full funding, without engaging in a competitive bidding process, by simply exercising their option to take model-level support by making a state-level commitment. Mobile carriers (and, for that matter, other competitive ETCs) will not be able to bid on, or obtain, any support in any geographic area where the state-level commitment has been made – for at least five years.

Nor should Mobility Fund Phase II support be reallocated to the Remote Areas Fund ("RAF"). The RAF competitive bidding process, initially scheduled for 2013, has been pushed back until at least 2016. Residents of unserved rural areas should not be forced to wait an additional two or more years before the deployment of broadband services. Further, Mobility Fund Phase II support is specifically targeted to 4G LTE mobile services. By contrast, the RAF is targeted for fixed satellite and fixed wireless services. For the reasons explained in these Comments, and long understood by the Commission, mobile services offer customers much greater flexibility than fixed services.

Lastly, C Spire opposes the reallocation of Mobility Fund Phase II support to a second round of Mobility Fund Phase I to provide one-time support for capital expenditures. Mobility Fund Phase II support is, and must remain, annual and ongoing. Reallocation to a one-time support mechanism would result in a substantial loss of overall funding. For example, re-allocating $100 million of Mobility Fund Phase II support to one-time support could remove $1 billion ($100 million for 10 years) from continuing support for mobile.

III. MOBILE BROADBAND PROVIDERS SHOULD BE ELIGIBLE TO RECEIVE CAF PHASE II SUPPORT

Rather than continue the giveaway of support to price cap incumbents, the Commission should permit mobile wireless broadband providers to compete for CAF Phase II support immediately. Allowing mobile wireless providers to participate in CAF Phase II will make the process more competitive by expanding the number of potential participants in the auction. Participation by mobile wireless providers in the CAF Phase II auction would also benefit consumers in rural areas by opening the possibility that CAF Phase II funding will provide access not just to broadband, but to mobile broadband, which many citizens, especially those in low income communities, already prefer. Finally, allowing mobile wireless providers to participate in CAF Phase II would be a small step toward alleviating the massive funding disparities between wireline and mobile wireless broadband technologies set forth in the universal service budget adopted by the Commission in the *CAF Order*.

IV. CONCLUSION

For the reasons set forth above, C Spire urges the Commission to develop a record concerning the state of mobile broadband in rural America, which will lead to an increase in the budget for Mobility Fund Phase II. Support must be sufficient to ensure not only the deployment of 4G LTE facilities, but also the maintenance and operation of such facilities in high-cost, low-demand rural areas. The Commission should not reallocate Mobility Fund Phase II support to other programs. To do so would further diminish an already reduced pool of support specifically targeted to the deployment and operation of mobile wireless broadband facilities. C Spire has shown, and the Commission is well aware, that mobile wireless broadband offers unique, and highly valuable, functionality that cannot be matched by fixed services. Finally, mobile wireless broadband providers should be permitted to compete for CAF Phase II support.

Respectfully submitted,

CELLULAR SOUTH LICENSES, LLC
D/B/A C SPIRE

By: ______________________________

David L. Nace
David A. LaFuria
Steven M. Chernoff
Robert S. Koppel

LUKAS, NACE, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
McLean, Virginia 22102
(703) 584-8678

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