

**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

**REPLY COMMENTS
of
UNITED STATES CELLULAR CORPORATION**

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SUMMARY

In order for the Mobility Fund Phase II challenge process to work effectively in ensuring that areas eligible for MF-II support are accurately identified, the Commission must address two principal issues.

First, broadband coverage data collected from incumbent service providers must be as accurate as possible, to protect against the challenge process being overwhelmed by a large volume of challenges demonstrating reporting carriers' overstatement of coverage. The Commission has fixed this problem, taking into account arguments and proposals advanced by U.S. Cellular and others, by setting aside FCC Form 477 coverage data and providing for a one-time data collection to better ensure the accuracy of reported coverage.

Second, the challenge process should balance the need for coverage data accuracy against the burdens imposed on interested parties, particularly smaller rural carriers. Numerous commenters responding to the *Public Notice* have highlighted several cases in which proposed challenge process procedures would impose significant and unwarranted burdens on challengers, creating a substantial risk that challengers would be seriously encumbered in their efforts to correct inaccurate claims by incumbent carriers that inflate the extent of their broadband coverage.

U.S. Cellular in these Reply Comments joins these commenters in arguing that certain proposals in the *Public Notice* concerning speed testing performed by challengers, the use of grid cells and buffers, and the challenge process timeline, should be modified or rejected, in order to avoid saddling challengers, many of whom are likely to be smaller rural carriers, with burdens that will encumber their efforts and prevent the challenge process from producing accurate findings regarding areas that are eligible for MF-II support.

Speed Tests

U.S. Cellular agrees with commenters arguing that at least one testing device utilized for speed test measurements must use the Android operating system, and that challengers should have flexibility to select the testing platforms they use for speed tests. The Bureaus should not impose any extraneous information requirements related to challengers' speed test data submissions, nor should challengers' speed tests be subject to challenged carriers' throttling or other network management practices. The challenge process procedures also should clarify that challengers' speed test data may be certified either by "in-house" or third-party qualified engineers.

Grid Cells

In order to avoid requiring challengers to carry out an excessive number of speed tests to mount successful challenges, the size of grid cells should be increased to one square mile, and the radius of buffers applied in each grid cell should be increased to one-half mile. If, however, the proposed grid cell size of one square kilometer is adopted, then there should be exceptions to account for problems with the use of grid cells of that size in many rural areas.

Challenge Process Timeline

Challengers should be given notice of at least 30 days prior to activation of the online challenge portal, in order to provide challengers with a better opportunity to muster the resources necessary to prepare and submit accurate challenges to incumbent carriers' coverage claims. In addition, the application of the 150-day window for challenges should be modified to take into account seasonal factors that will affect challengers' ability to conduct speed tests in many rural areas. Finally, the Commission should increase the window for responding to challenges from 30 days to 60 days, to provide smaller rural carriers and other parties subject to challenges sufficient time to prepare detailed, well-documented responses.

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United States Cellular Corporation (“U.S. Cellular”), by counsel, hereby submits these Reply Comments, in response to the Commission’s Public Notice in the above-captioned proceedings,¹ in which the Rural Broadband Auctions Task Force, the Wireline Competition Bureau, and the Wireless Telecommunications Bureau (hereinafter collectively referred to as the “Bureaus”), pursuant to the Commission’s direction, propose and seek comment on specific parameters and procedures to implement the Mobility Fund Phase II (“MF-II”) challenge process.²

U.S. Cellular provides mobile wireless voice and broadband service in nearly 200 markets across 24 states located in regional clusters across the country. The overwhelming majority of the geography served by U.S. Cellular is in rural America. U.S. Cellular is a long-time participant in the Commission’s universal service program, has been designated as an eligible telecommunications carrier in 14 states, and has been recognized by the Commission as “one of the regional

¹ *Comment Sought on Mobility Fund Phase II Challenge Process Procedures and Technical Implementation*, WC Docket No. 10-90, WT Docket No. 10-208, Public Notice, DA 17-1027 (rel. Oct. 18, 2017) (“*Public Notice*”).

² *Id.* at para. 2.

providers most active in seeking a framework for MF-II [that is] sensitive to smaller entities.”³ U.S. Cellular has used support to construct and operate mobile wireless networks in small towns and on rural roads that otherwise would not receive mobile wireless voice and broadband service, because it would not be economically feasible to deliver service in these areas without universal service funding.

I. INTRODUCTION.

Throughout the MF-II rulemaking process, one of the issues on which U.S. Cellular has focused is the need for the challenge process⁴ to be designed in a way that does not preclude smaller rural carriers from having a realistic opportunity to challenge coverage data submitted by incumbent carriers. In the early stages of the Commission’s deliberations concerning the challenge process, U.S. Cellular expressed concerns regarding the Commission’s unrealistic plan to rely on the challenge process to cure the numerous documented flaws in coverage data collected by the Commission in FCC Form 477 filings.⁵

³ *Connect America Fund; Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, WT Docket No. 10-208, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6287 (para. 10 n.23) (2017) (“*MF-II Challenge Process Order*”).

⁴ The MF-II challenge process will provide an opportunity for interested parties to challenge determinations regarding geographic areas that will not be eligible to receive MF-II support. The Commission has explained that:

The MF-II challenge process ... will be administratively efficient, fiscally responsible, and will enable us to resolve eligible area disputes quickly and expeditiously. This challenge process will begin with a new, one-time collection of standardized, up-to-date 4G LTE coverage data from mobile wireless providers. Interested parties will then have an opportunity to contest an initial determination that an area is ineligible for MF-II support, and providers will then have an opportunity to respond to challenges.

Id. at 6283 (para. 1).

⁵ See *Rural Wireless Carriers, Petition for Reconsideration and Clarification*, WC Docket No. 10-90, WT Docket No. 10-208 (filed Apr. 27, 2017), at iii:

The Commission asserts that the challenge process will correct inaccuracies associated with flawed Form 477 data, but no challenge process can be sufficiently robust to process and resolve a myriad of challenges stemming from overstated coverage data. Moreover,

U.S. Cellular commends the Commission for abandoning that approach, in favor of a one-time data collection that will begin the challenge process.⁶ Having fixed the data collection problem, an important task for the Commission now is to ensure that smaller rural carriers do not face any substantial or unnecessary burdens that would impede their efforts to participate in the challenge process.⁷

In these Reply Comments, U.S. Cellular expresses its agreement with numerous commenters that the Bureaus should modify some of their proposed procedures, and take additional steps, to ensure that the MF-II challenge process is free of any unwarranted burdens on smaller rural carriers, and to ensure that these carriers have a fair and effective opportunity to participate in the challenge process. These suggested modifications and additional steps are in keeping with the Bureaus' intent to implement a challenge process that "minimize[s] the burden on small business challengers"⁸

any challenge process will impose tremendous burdens on challengers, which would be unnecessary if the Commission were to just focus on fixing the deficiencies in its Form 477 data collection process. The Commission's decision to press ahead, relying on Form 477 data, will inevitably leave behind many rural consumers because the challenge process will fall short of meeting the burden of correcting erroneous service coverage determinations.

The Rural Wireless Carriers were comprised of U.S. Cellular, East Kentucky Network, LLC d/b/a Appalachian Wireless, Cellular Network Partnership d/b/a Pioneer Cellular, NE Colorado Cellular, Inc. d/b/a Viaero Wireless, Nex-Tech Wireless LLC, and Smith Bagley, Inc.

⁶ *Public Notice* at para. 2. See Ex Parte Letter from David A. LaFuria, Counsel to U.S. Cellular, to Marlene H. Dortch, Secretary, FCC (filed July 27, 2017) ("LaFuria Letter"), at 1 (noting that "U.S. Cellular is pleased to support the concept of a one-time data collection in place of using FCC Form 477 data").

⁷ The Commission has concluded that the "challenge process [should] appropriately balance[] the need for [coverage data] accuracy against the burdens imposed on interested parties." *MF-II Challenge Process Order*, 32 FCC Rcd at 6298 (para. 32).

⁸ *Public Notice* at para. 33.

II. DISCUSSION.

The record in response to the *Public Notice* demonstrates that the Bureaus should make adjustments and provide clarification concerning the proposed procedures for speed tests conducted by challengers, that the specifications and procedures for the use of grid cells should be modified, and that certain adjustments should be made regarding the challenge process timeline.

A. Speed Tests.

1. **For Purposes of Using “Readily Available Handset Models” to Test Service Providers’ Qualified 4G LTE Coverage, the Bureaus Should Ensure That at Least One Testing Device Uses the Android Operating System.**

The *Public Notice* explains that service providers are required to identify at least three “readily available handset models” appropriate for testing their coverage, that challengers electing to use application-based tests and software-based drive tests must use handsets specified by service providers, and that service providers will be required to specify at least one handset that is compatible with industry-standard drive test software.⁹ The *Public Notice* proposes to require service providers to identify at least one device that is either “officially supported” by the latest versions of drive-test software, or that is engineering-capable and able to interface with drive test software.¹⁰

U.S. Cellular agrees with Mosaik that the success of the MF-II challenge process, and the accuracy of coverage data produced by the challenge process, will depend in part on the Bureaus’ adoption of parameters for the definition of “readily available handset models” that account for

⁹ *Id.* at paras. 7-8.

¹⁰ *Id.* at para. 8.

the broad diversity of devices currently used by wireless service consumers.¹¹ This issue has particular significance for smaller rural carriers, many of whose customers may use lower-cost LTE-capable devices.¹²

In light of these considerations, U.S. Cellular agrees with Mosaik that, if the challenged carrier sells Android devices to its customers, then the challenge process procedures should require that at least one of the testing devices must use the Android operating system.¹³ Forcing challengers to use iOS-based devices would drive up costs faced by challengers¹⁴ (which would be particularly burdensome for smaller rural carriers) and would “drastically reduce the amount of information that challenging parties may be able to collect.”¹⁵

U.S. Cellular also supports Mosaik’s suggestion that the Bureaus should set an upper limit on the per-device cost of readily available handset models, and should require challenged carriers to “distribute their ‘readily available handset models’ evenly across their device portfolios’ retail costs spectrum.”¹⁶ These steps would lessen cost burdens faced by smaller rural carriers who seek to lodge challenges against coverage claims made by incumbent service providers.

¹¹ Mosaik Solutions (“Mosaik”) Comments (filed Nov. 8, 2017), at 2-3.

¹² As Mosaik notes, U.S. Cellular offers lower-cost smartphones to its customers. *Id.* at 2 (citing *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 Wireless*, WT Docket No. 17-69, Twentieth Report, FCC 17-126 (rel. Sept. 27, 2017), at para. 64 (footnote omitted) (noting that U.S. Cellular has tried to differentiate its offerings by “offering ... a low-cost LG smartphone for \$19.99”).

¹³ Mosaik Comments at 3.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 4.

2. Challengers Should Be Given Flexibility to Select the Testing Platform They Use for Speed Test Measurements in Challenged Areas.

The Bureaus’ proposal concerning provider-approved handsets is not sufficient to allow challengers to conduct drive tests efficiently and effectively¹⁷ because, as discussed above, the proposal could cause challengers to face unnecessary costs and could hamper challengers in their efforts to gather probative data. As Mosaik suggests, an antidote to this problem is for the Bureaus to ensure that any challenger has “the flexibility to select the testing platform that best meets its needs so long as the platform produces reliable testing data capable of certification.”¹⁸

Further, U.S. Cellular supports Mosaik’s argument that the challenge process procedures established by the Bureaus should not implicitly incorporate any bias for or against any application-based testing or software-based drive testing platform. Any such bias would interfere with challengers’ flexibility in choosing testing platforms. In this regard, U.S. Cellular agrees with Mosaik that the Bureaus should clarify that they do not intend Ookla to be the default application-based platform for testing.¹⁹

3. The Bureaus Should Not Require Challengers to Comply with Extraneous Information Requirements Associated with Speed Test Data Submissions.

In addition to challengers’ speed test parameters adopted by the Commission,²⁰ the Bureaus have proposed to require challengers to provide an extensive array of other data parameters:

[S]ignal strength and latency; the service provider identity and device used (which

¹⁷ See *Public Notice* at para. 8.

¹⁸ Mosaik Comments at 4.

¹⁹ *Id.* at 4-5.

²⁰ The Commission adopted standard parameters for speed tests that address “geographic area, recorded speed, time and date of speed measurements, and handset” *Public Notice* at para. 12 n.41 (citing *MF-II Challenge Process Order*, 32 FCC Rcd at 6308-09 (paras. 50-51)).

must be from that provider’s list of pre-approved handsets); the international mobile equipment identity ... of the tested device; the method of the test (i.e., software-based drive test or non-drive test app-based test); and, if an app was used to conduct the measurement, the identity and version of the app.²¹

The Bureaus claim, without any explanation or support, that “[t]his information will improve the ability of challenged parties and Commission staff to analyze the validity and probative value of a speed test.”²² U.S. Cellular joins RWA in disagreeing with this claim and opposing the proposal.²³

As RWA explains, the Commission “has stated time and time again that an area’s eligibility for MF-II support is determined solely by whether or not unsubsidized service is provided in that area at the requisite download speed threshold”²⁴ Consistent with this approach, the Commission did not require carriers to provide the extraneous information listed by the Bureaus in the carriers’ one-time data submissions that begin the MF-II challenge process.²⁵

Challengers, especially smaller rural carriers with limited resources, should not be required to shoulder the burden of providing the additional information proposed by the Bureaus, since the information is not needed to determine speed throughput (the only eligibility criterion, as RWA points out).²⁶

²¹ *Id.* at para. 12 (footnotes omitted).

²² *Id.*

²³ *See* Rural Wireless Association, Inc. (“RWA”), Comments (filed Nov. 8, 2017), at 5-6.

²⁴ *Id.* at 5 (footnote omitted).

²⁵ *Id.* at 6.

²⁶ *Id.* U.S. Cellular agrees with RWA’s observation that:

Challengers should not be required to provide information that is unnecessary to make an MF-II eligibility determination. Collection of latency and signal level data requires additional phones and data usage, which exponentially increases the cost to raise a challenge and the burdens placed on the challenger. Because the only eligibility criterion is speed throughput, Commission staff should need only the parameters adopted by the Commission (geographic area, recorded speed, time and date of measurement, and handset used).

Id.

4. The Bureaus Should Not Require That Challengers' Speed Tests Will Be Subject to Challenged Carriers' Throttling or Other Network Management Practices.

The Bureaus have proposed to permit challenged providers to submit data showing that particular devices used in challengers' speed tests were subjected to reduced speeds, as a means of accounting for the fact that some providers may reduce data speeds on their networks for network management purposes.²⁷

This “throttling” proposal would wreak havoc with the MF-II challenge procedures by “insert[ing] unnecessary uncertainty in the process.”²⁸ If challenged service providers are afforded an opportunity to claim that a challenger's speed test results merely reflect reduced speeds resulting from throttling practices—and therefore do not represent accurate measurements of the challenged provider's network performance—this “would undermine, if not eviscerate, the validity of the challenge process”²⁹ As NTCA explains, the likelihood of this problematic result is compounded by the fact that the Bureaus' proposal does not identify any “procedure or standards for a challenger to refute a challenged party's claim that its network performs better than the challenger's experience and data.”³⁰

In light of these concerns, U.S. Cellular supports NTCA's recommendation that the Commission “should require that handsets identified as appropriate for testing not be subject to any

²⁷ *Public Notice* at para. 14 (footnote omitted) (proposing “to allow a challenged party to submit data that identify a particular device that a challenger used to conduct its speed tests as having been subjected to reduced speeds, along with the precise date and time the speed reductions were in effect on the challenger's device”).

²⁸ NTCA–The Rural Broadband Association (“NTCA”) Comments (filed Nov. 8, 2017), at 2-3.

²⁹ *Id.* at 3.

³⁰ *Id.* See Competitive Carriers Association (“CCA”) Comments (filed Nov. 8, 2017), at 4 (arguing that the Bureaus' “proposal unnecessarily creates a loophole for challenged parties to argue that the challenger's collected data is wrong without providing the challenger an opportunity to respond”).

network management practices that could or would undermine the value of the data they are used to collect.”³¹

5. The Bureaus Should Clarify That Challengers May Rely on Third-Party Vendors as Their “Qualified Engineers” for Purposes of Certifying Their Speed Test Data.

The Commission, in the *MF-II Challenge Process Order*, required that “speed test data [submitted by a challenger must] be substantiated by the certification of a qualified engineer or official under penalty of perjury.”³²

The Commission did not address the issue of whether the certifying engineer must be an employee of the challenger. U.S. Cellular agrees with commenters who argue that the Bureaus should clarify that the certifying engineer may be an “in-house” officer or employee of the challenger, or may be employed by or otherwise associated with an “outside” engineering firm.³³ Such a clarification would be particularly pertinent in the case of smaller rural carriers that often do not employ “in-house” engineers. Moreover, as Mosaik has noted, the Commission, in the context of the MF-II challenge process, “has informally stated that a ‘qualified engineer’ may include a third-party vendor.”³⁴

³¹ NTCA Comments at 3. U.S. Cellular notes that Verizon, in supporting the Bureaus’ proposal to allow incumbent carriers to submit speed reduction reports, claims nonetheless that “it would be burdensome for respondents to review all tests [submitted by challengers] to determine whether they were subject to reduced speeds” resulting from incumbents’ throttling or other network management practices. Verizon Comments (filed Nov. 8, 2017), at 5. Verizon’s proposed solution is for the Bureaus to impose requirements on the challengers. *See id.* This suggestion by Verizon to add to the requirements faced by challengers, including smaller rural carriers, should be rejected. The better approach, as NTCA and CCA have demonstrated, is for the Bureaus to abandon their proposal to permit challenged incumbents to submit data regarding testing devices that are claimed to have been subjected to reduced speeds.

³² *MF-II Challenge Process Order*, 32 FCC Rcd at 6308 (para. 49) (footnote omitted).

³³ RWA Comments at 10.

³⁴ Mosaik Comments at 5 n.16 (citing FCC, MF-II Challenge Process Webinar (Nov. 1, 2017)). *See also* RWA Comments at 10 & n.30.

B. Grid Cells.

1. The Size of the Grid Cells Used in Connection with Speed Test Measurements and Automated Validation of Challenges Should Be One Square Mile, and the Buffer Applied in Each Grid Cell Should Have a Radius of One-Half Mile.

The Bureaus plan to generate a map of areas that are presumptively eligible for MF-II support, that will serve as the baseline for the challenge process.³⁵ The Bureaus explain that the first task in this process will involve determining, and generating a map of, unsubsidized qualified 4G LTE coverage for each service provider.³⁶ One of the steps in creating this coverage map for each provider involves “overlay[ing] a uniform grid with cells of one square kilometer (1 km by 1 km) on the provider’s coverage map”³⁷

The Bureaus explain that coverage maps based on uniform grids will enable the automatic identification of challenged areas (relieving challengers of the task of creating maps of areas they seek to challenge).³⁸ In the process for the automated validation of challenges,³⁹ buffered areas (having a radius of one-quarter of one kilometer) will be used for purposes of determining areas covered by challengers’ speed tests in challenged areas.⁴⁰

U.S. Cellular agrees with arguments in the record that these methodologies proposed by the Bureaus should be modified by using grid cells of one square mile, rather than one square

³⁵ *Public Notice* at para. 3.

³⁶ *Id.* at paras. 3-4. The Bureaus will then use the coverage maps generated for each service provider to generate a map of presumptively eligible areas for each state or state equivalent. *Id.* at para. 5.

³⁷ *Id.* at para. 4 (footnote omitted).

³⁸ *Id.*

³⁹ See *MF-II Challenge Process Order*, 32 FCC Rcd at 6310-11 (paras. 53-57).

⁴⁰ *Public Notice* at paras. 17, 20.

kilometer,⁴¹ and by using buffers with a radius of one-half mile, rather than one-quarter of one kilometer.⁴² These adjustments would help to address a concern expressed by ATN, which U.S. Cellular shares, that “the Commission must reduce the number of measurements that are required to mount a successful challenge in order to avoid prohibitive burdens on challenge process participation, especially for smaller carriers.”⁴³

ATN explains that the Bureaus’ plan to use grid cells of one square kilometer, and to use buffers for each grid cell with a radius of one-quarter of one kilometer,⁴⁴ “will require challengers to obtain an excessive number of measurements in order to mount successful challenges, making participation in the challenge process cost- and time-prohibitive, particularly for small carriers.”⁴⁵ As U.S. Cellular has discussed, such a result would conflict with the objective of ensuring that the challenge process procedures minimize burdens on small business challengers.

U.S. Cellular supports ATN’s suggested solution that “the Commission should reduce the burden [on challengers] by using a larger grid and a larger buffer radius.”⁴⁶ As ATN explains, using a one-mile grid and buffer circles with a radius of one-half mile would retain the framework proposed by the Bureaus for processing challenges, but “would at least reduce this burden to a more manageable level—particularly for smaller carriers.”⁴⁷

⁴¹ One square mile is equal to 2.58999 square kilometers. One square kilometer is equal to 0.38610 square miles.

⁴² One mile is equal to 1.60934 kilometers. One kilometer is equal to 0.62137 miles.

⁴³ ATN International, Inc. (“ATN”), Comments (filed Nov. 8, 2017), at 1.

⁴⁴ *Public Notice* at para. 20.

⁴⁵ ATN Comments at 2.

⁴⁶ *Id.* at 4.

⁴⁷ *Id.* ATN notes, however, that this approach still “would not eliminate challengers’ obligation to perform tests in areas that are not vehicle-accessible” *Id.*

2. If the Bureaus Retain Their Proposed Grid Cell Size of One Square Kilometer, the Bureaus Should Provide An Exception for Rural Areas.

RWA explains that there is a further problem with the Bureaus' proposal to use a uniform grid of one square kilometer for purposes of generating coverage maps and validating evidence submitted by challengers. Specifically, in many rural areas the roads are located on the borders of one-square-mile grids.⁴⁸ As a result, RWA indicates that "it is likely that a one square kilometer grid cell could be entirely encapsulated within a one square mile road grid cell, leaving no access to drive a complete single kilometer-based grid cell."⁴⁹

The Bureaus have stated that challenges will be evaluated on a grid cell basis, and "[o]nly cells with at least one submitted speed test within the cell would be considered as challenged."⁵⁰ RWA observes that, under this proposal, "[d]ue to the lack of road access [in many rural areas], it would not be physically possible to challenge ... a [single kilometer-based] grid cell ..."⁵¹

U.S. Cellular agrees with RWA that, to solve this problem, "the Bureaus should create an exception applicable to rural areas where road grids are one square mile or larger."⁵² Specifically, if four or more grid cells surrounding an inaccessible grid cell have been shown by a challenger as not meeting the speed threshold required by the Commission, then the inaccessible grid cell should

⁴⁸ RWA Comments at 3 & n.11.

⁴⁹ *Id.* at 4 (footnote omitted).

⁵⁰ *Public Notice*, App. B, at para. 1, *cited in* RWA Comments at 4.

⁵¹ RWA Comments at 4.

⁵² *Id.*

be treated as ineligible for MF-II support.⁵³ The exception advocated by RWA is necessary to ensure that smaller rural carriers have a realistic opportunity to challenge areas deemed presumptively ineligible for MF-II support.

C. Timeline.

1. Prospective Challengers Should Be Given at Least 30 Days' Notice Prior to Activation of the USAC Online Challenge Portal.

The Commission has indicated that challengers will submit their challenges regarding areas treated as presumptively ineligible to receive MF-II support via an online challenge portal maintained by the Universal Service Administrative Company (“USAC”).⁵⁴ The Bureaus have explained that the USAC portal will be accessible to challengers on the first business day following release of a map showing areas that are presumptively eligible for MF-II support.⁵⁵ The map will be released “no earlier than four weeks” after the deadline for filing 4G LTE provider coverage data.⁵⁶ The opening of the USAC portal will trigger a 150-day window during which challenges may be filed via the portal.⁵⁷

U.S. Cellular commends the Commission for its decision to provide a 150-day window for submitting challenges,⁵⁸ since this period of time will help to afford interested parties, including smaller rural carriers, a reasonable opportunity to prepare and file challenges. U.S. Cellular agrees

⁵³ *Id.* RWA explains that, under its proposed exception, “[i]f a cell that abuts against (or is in a group of) blocks where the challenge has been deemed presumptively successful, then that cell should be automatically considered the subject of a presumptively successful challenge if it is identified by the challenger as not being drivable.” *Id.*

⁵⁴ *MF-II Challenge Process Order*, 32 FCC Rcd at 6297 (para. 29).

⁵⁵ *Public Notice* at para. 28.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *See MF-II Challenge Process Order*, 32 FCC Rcd at 6296 (para. 29).

with RWA, however, that the Bureaus should take an additional step to further ensure that prospective challengers are better able to submit challenges during the challenge window.

Specifically, prospective challengers should be given at least 30 days' notice prior to the opening of the USAC portal. U.S. Cellular agrees with RWA that this advance notice would enable prospective challengers to better utilize the 150-window to undertake and complete the work necessary to prepare and submit challenges, since the prospective challengers could make preparatory arrangements, such as identifying and assembling the resources needed to conduct speed tests, during the 30-day notice period.⁵⁹

2. The Challenge Process Timeline Should Be Modified to Take Seasonal Factors into Account.

NTCA has identified a timeline issue that would likely affect smaller rural carriers, and that warrants an adjustment of the timeline. Specifically, NTCA observes that the event that will trigger the opening of the 150-day challenge window—which is the release of the map of presumptively eligible areas—could occur in early February 2018.⁶⁰ If the challenge window opens in February, smaller rural carriers would be forced to carry out “the bulk of their drive testing during the height of winter.”⁶¹

U.S. Cellular agrees with NTCA that a timeline that causes a large percentage of drive testing to occur during the winter season would cause two problems. First, as NTCA explains, smaller rural carriers serve many areas that “face a harsh season with areas that are inaccessible because of snow. Mountainous and northern locations receive heavy snowfall well into spring.

⁵⁹ See RWA Comments at 3.

⁶⁰ NTCA Comments at 3.

⁶¹ *Id.* at 4 (footnote omitted).

While drive testing could be performed along major thoroughfares, the areas that are most likely to be unserved are those that are more difficult to access.”⁶²

And, second, the accuracy of measurements is affected by seasonal factors. Specifically, the absence of foliage during winter months “is likely to overstate service availability in many rural areas.”⁶³

In light of these considerations, U.S. Cellular supports NTCA’s proposal that, in order to ensure that rural carriers are able to complete necessary drive testing and that the drive testing produces accurate data, “the Commission should ensure that the challenge window is open through the entirety of the summer months and that it be no shorter than 150 days in length.”⁶⁴ NTCA acknowledges that this approach could delay the opening of the 150-day window, but U.S. Cellular agrees with NTCA’s argument that a “short delay is unlikely to have any material effect on the reverse auction, but will help ensure that support is targeted to where it is needed.”⁶⁵

3. A Thirty-Day Period Is Insufficient Time to Enable Parties to Prepare Proper Responses to Challenges.

In the *MF-II Challenge Process Order*, the Commission provides challenged parties with thirty (30) days within which to review data submitted by a challenger and to submit information

⁶² *Id.* See RWA Comments at 3 n.7; LaFuria Letter at 2 (noting that “between the months of November and April, ... areas in New England, the Midwest, upper Midwest, and far West experience winter weather, limiting the distances and the opportunities to test remote areas”). NTCA notes that “rural providers are likely to be testing wide swaths of territory with many unpaved roads and doing it with minimal staff.” NTCA Comments at 4.

⁶³ NTCA Comments at 5. NTCA explains that foliage in the path of communications links can significantly affect the quality of service for wireless communications. *Id.* at 5 & n.10.

⁶⁴ *Id.* at 5-6. U.S. Cellular suggests that the 150-day window should open no earlier than May 2018.

⁶⁵ *Id.* at 6.

opposing the challenge.⁶⁶ In the *Public Notice*, the Bureaus reiterate the 30-day deadline and encourage challenged parties to file oppositions in advance of the deadline, noting that “[a] challenged party will not have a further opportunity to submit any additional data for the Commission’s consideration after the response window closes and should therefore plan accordingly.”⁶⁷

U.S. Cellular respectfully requests the Commission to extend the time for responding to challenges from 30 days to 60 days. For smaller rural carriers, having even a single challenge filed against their coverage data would require significant effort and resources to prepare a sufficiently detailed and documented response. It would be a taxing burden—and could well prove to be impracticable—for these carriers to achieve this task within 30 days. Moreover, it is possible or even likely that more than one challenge would be submitted. For a carrier such as U.S. Cellular, with extensive operations in multiple states, the work required to respond to numerous challenges within one month’s time will be very difficult.

This difficulty is illustrated by considering the steps involved in preparing and submitting a response to a challenge. In each case, a carrier must perform a number of tasks to respond to a single challenge, such as: access the USAC portal; download specific data; compare the data filed by the challenging carrier for the challenged area to that which was provided by the challenged carrier; develop a testing plan; acquire and calibrate handsets; deploy teams to perform tests; analyze gathered test data; develop mapping data in the appropriate format; and file the response with the Commission. In U.S. Cellular’s specific situation, the filing of even a dozen challenges across its multi-state footprint will present a significant logistical challenge involving the deployment of

⁶⁶ *MF-II Challenge Process Order*, 32 FCC Rcd at 6311 (para. 59).

⁶⁷ *Public Notice* at para. 29.

teams to the appropriate areas, making the 30-day deadline wholly insufficient to complete the task properly.

There is an important public policy consideration in play here as well. If a carrier draws a number of challenges that it cannot sufficiently rebut within the 30-day deadline, it may simply throw up its hands and decide not to respond to any of the challenges. In such a case, rural areas that may in fact be ineligible because they are covered, will nonetheless be listed as eligible for investment in the MF-II auction. Bidders will bid and funds will be awarded in areas that, under the Commission's stated policy of only subsidizing one carrier in an area, should not receive funding. The Commission should be very concerned that these areas might be exploited by carriers already providing service who will be in an advantageous position to submit winning bids at auction. This is an inefficient and preventable waste of support that could be avoided in large measure simply by extending the time to respond to challenges by 30 additional days.

III. CONCLUSION.

Some of the specific parameters and procedures proposed by the Bureaus for the MF-II challenge process would have the effect of imposing significant burdens on smaller rural carriers, with the likely prospect of forcing some of these carriers out of the challenge process altogether, as well as making it difficult for them to respond to challenges submitted by other parties. These impacts on smaller rural carriers would imperil a principal purpose of the challenge process, which is to further the Commission's objective of "ensuring that 4G LTE service is preserved and advanced in those areas of the country that lack unsubsidized service."⁶⁸

⁶⁸ *MF-II Challenge Process Order*, 32 FCC Rcd at 6282 (para. 1).

The Bureaus can and should avoid such a result by making the modifications to the challenge process procedures, and by taking the additional steps to improve these procedures, that U.S. Cellular has advocated in these Reply Comments. U.S. Cellular urges the Bureaus to take these actions.

Respectfully submitted,

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