

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**OPPOSITION OF
NTCA–THE RURAL BROADBAND ASSOCIATION
TO VERIZON APPLICATION FOR REVIEW**

NTCA–The Rural Broadband Association (“NTCA”)¹ hereby opposes the Application for Review filed by Verizon Communications, Inc. (“Verizon”)² requesting that the Commission vacate an order in which the Wireless Telecommunications Bureau and Wireline Competition Bureau increased the buffer radius for the Mobility Fund challenge process.³ While Verizon argues that the buffer radius increase conflicts with the Commission’s challenge process rules, the action of the Bureaus was in fact consistent with the existing rules, was well within the scope of delegated authority to carry out those rules, and will improve challenge process data accuracy. It therefore should not be vacated.

¹ NTCA represents approximately 850 independent, community-based telecommunications companies and cooperatives and more than 400 other firms that support or are themselves engaged in the provision of communications services in the most rural portions of America. All NTCA service provider members are full service rural local exchange carriers (“RLECs”) and broadband providers, and many provide fixed and mobile wireless, video, satellite and other competitive services in rural America, as well.

² Application for Review of Verizon, WC Docket No. 10-90, WT Docket No. 10-208 (June 21, 2018) (“Verizon AFR”)

³ *Universal Service Reform – Mobility Fund*, Order on Reconsideration, WC Docket No. 10-90, WT Docket No. 10-208; DA 18-427 (rel. April 30, 2018) (“Challenge Procedures Reconsideration Order”).

The Commission, in delegating implementation of the Mobility Fund Phase II (“MFII”) challenge process to the Bureaus, required that the “specific value for the maximum distance between speed tests . . . will be no greater than one mile.”⁴ When the Bureaus initially established the challenge process procedures,⁵ they determined that speed test measurements submitted to support or respond to a challenge to an area that is initially deemed ineligible for MFII support must be no more than 500 meters from one another. The Bureaus determined that challenges would be assessed using a grid with cells of one square kilometer and a buffer with a radius of half the maximum distance parameter (250 meters).

The Rural Wireless Association, Inc. (“RWA”) offered the Commission data regarding the burden a challenger would face in trying to mount a challenge under such parameters.⁶ RWA demonstrated that it could take six to eight full-time employees working 150 days to collect the data needed to establish a challenge using the 250-meter buffer radius – a monumental burden for small and rural provider challengers. Recognizing that “applying a . . . slightly larger buffer radius will significantly reduce the burden on potential challengers while not unduly compromising the Commission’s interest in collecting accurate data that reflects consumers’ experience” the Bureaus reconsidered its procedures and extended the buffer radius from 250 to 400 meters.⁷

⁴ *Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, WC Docket No. 10-90, WT Docket No. 10-208, FCC 17-102 at ¶ 51 (rel. Aug. 4, 2017) (“Challenge Process Order”).

⁵ *Universal Service Reform – Mobility Fund*, Public Notice, WC Docket No. 10-90, WT Docket No. 10-208, DA 18-186 (rel. Feb 27, 2018) (“Challenge Process PN”).

⁶ See, *ex parte letters* of Caressa D. Bennet, General Counsel, RWA and Erin P. Fitzgerald, Regulatory Counsel, RWA to Marlene H. Dortch, Secretary, FCC, WT Dockets 10-208, *et al.* (March 30, 2018) and (April 20, 2018).

⁷ Challenge Procedures Reconsideration Order at ¶ 4.

In its Application for Review, Verizon argues that a 400-meter buffer radius is “inconsistent” with the Commission’s speed test parameters described in the MFII Challenge Process Order.⁸ However, challengers are required to take speed measurements that are no more than a fixed distance apart and which substantially cover the entire area. The only limitation placed by the Commission in delegating implementation to the Bureaus was a requirement that the maximum distance between speed tests be no greater than one mile.”⁹ A 400-meter buffer radius is an 800 meter, or half mile, distance between speed tests and is well within the one-mile maximum distance between speed tests established by the Commission. The 400-meter buffer radius is thus consistent with, and fully within the scope of, the clear and settled limitations upon delegation defined in the Challenge Process Order.

Without any procedural rationale that would justify review, Verizon reverts to policy considerations that do not justify overriding the Bureaus’ reasonable exercise of delegated authority. Specifically, Verizon is concerned that a 400-meter buffer radius does not provide sufficient density to represent the actual consumer experience.¹⁰ Verizon’s concerns lack factual basis. There is no evidence in the record that a 400, rather than a 250, meter buffer radius will have a material (or any) impact in measuring the consumer experience. To the contrary, NTCA submits that an extended buffer radius will yield better data that more accurately reflects the consumer experience by helping to validate more effectively nationwide providers’ sweeping claims of served territory. As US Cellular pointed out, “any small inaccuracies . . . will be more than offset by the increased accuracy that will accrue to the map by challengers having more

⁸ Verizon AFR, p. 1, no. 3

⁹ *Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, WC Docket No. 10-90, WT Docket No. 10-208, FCC 17-102 at ¶ 51 (rel. Aug. 4, 2017) (“Challenge Process Order”).

¹⁰ Verizon AFR, p. 6.

opportunity to submit challenges -- and a willingness to engage in the process. Even relatively small reductions in the cost of mounting a challenge will be more than repaid by increased participation in the challenge process, and a corresponding increase in map accuracy.”¹¹

Verizon also expresses concern about “false positives” – presumptively successful challenges of large areas that are in fact served by 4G LTE. Putting aside again, however, the fact that Verizon’s policy argument does not provide sufficient cause for review and overturning of the Bureaus’ decision, the fact is that presumptively successful challenges can be rebutted by the carrier claiming qualifying 4G LTE coverage with a process that is far less onerous than the challenger requirements. Challengers have no incentive to put forth unsupported challenges. The 400-meter buffer radius will not result in widespread successful challenges of areas that are served by unsubsidized qualifying coverage. By contrast, failing to correct areas incorrectly claimed as covered could close off substantial swaths of rural territory from MFII investment solely because the maps were flawed and the challenge process too onerous. The Bureaus’ decision to establish a 400-meter buffer radius is the result of a careful weighing of burdens to all interested parties against the public benefit of a robust challenge process.

¹¹ Reply of US Cellular to Opposition, WC Docket No. 10-90, WT Docket No. 10-208, pp. 3-4 (May 7, 2018). *See also*, AT&T Reply to Opposition at p. 4 (stating “establishing a workable challenge process requires that the Commission strike an appropriate balance between the accuracy of speed test data and the burden of producing that data on potential challengers.”).

For the above-described reasons, the 400-meter buffer radius should be retained and the Verizon Application for Review should be denied.

Respectfully submitted,

NTCA--The Rural Broadband Association



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Certificate of Service

I hereby certify that on this 13th day of July, 2018, I served a copy of the foregoing Opposition of NTCA – The Rural Broadband Association to Verizon Application for Review by U.S. Mail postage prepaid to the parties on the following service list:

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