

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

In the Matter of	:	
	:	
Universal Service Reform	:	WT Docket No. 10-208
	:	
Mobility Fund	:	

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Dated: December 15, 2010

TABLE OF CONTENTS

Page

INTRODUCTION AND SUMMARY	1
DISCUSSION.....	2
I. Potential Benefits of the Proposal	2
II. Size of the Mobility Fund.....	3
III. Prioritization among Unserved Areas	6
IV. Reverse Auctions and ETC Designation	8
CONCLUSION	12

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

In the Matter of	:	
	:	
Universal Service Reform	:	WT Docket No. 10-208
	:	
Mobility Fund	:	

**COMMENTS
SUBMITTED ON BEHALF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

INTRODUCTION AND SUMMARY

On October 14, 2010, the Federal Communications Commission (FCC) released a Notice of Proposed Rulemaking (NPRM) in the above captioned proceeding pertaining to the creation of a fund to support mobile wireless broadband deployment in currently unserved areas as set forth in the National Broadband Plan (NBP).¹ Specifically, the NPRM proposes using reserves accumulated in the Universal Service Fund (USF) to create the Mobility Fund, the purpose of which would be to significantly improve coverage of current generation or better mobile voice and Internet service for consumers in

¹ Federal Communications Commission, *Connecting America: The National Broadband Plan*, (rel. March 16, 2010) (NBP).

areas where such service is currently missing.² According to the NPRM, the Mobility Fund would support private investment in mobile wireless broadband deployment using reverse auctions to make one-time support available to service providers for the purpose of expanding service into specified unserved areas.³ Initial comments are due no later than December 16, 2010 with reply comments due by January 15, 2011. The Ohio Commission appreciates the opportunity to comment in this docket and hereby provides its comments to the FCC for its consideration.

DISCUSSION

I. Potential Benefits of the Proposal

The Ohio Commission supports the FCC's efforts to further expand mobile wireless broadband service into presently unserved areas. Increasing mobile wireless broadband availability will likely spur economic development in these unserved areas through the creation of temporary jobs required for the system build-out and permanent jobs necessary for its ongoing maintenance and support. Additionally, once in place, the technology may facilitate further development through the use of previously unavailable applications by business, medical and educational users in areas unserved by terrestrial broadband. Such development would not only have a positive impact on the economies of these areas, but on entire states as well. Finally, since support for the Mobility Fund is

² *In the Matter of Federal-State Joint Board on Universal Service Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking (rel. October 14, 2010) (NPRM).

³ *Id.* at 2, ¶ 1.

to come from high-cost support surrendered by Verizon Wireless and Sprint Nextel,⁴ states such as Ohio, who are net-payers into the high-cost fund, are likely to benefit from the proposed Mobility Fund. Nonetheless, while the expanded mobile wireless broadband deployment may create exciting opportunities for states who, like Ohio,⁵ have unserved areas, the Ohio Commission has concerns with certain aspects of the Mobility Fund proposal set forth in the NPRM.

II. Size of the Mobility Fund

Of particular concern to the Ohio Commission is the proposed size of the Mobility Fund. As noted above, Verizon Wireless and Sprint Nextel have both agreed to surrender their high-cost support, which was estimated at \$530 million in 2008, in equal 20 percent increments over 5 years⁶. This surrendered support is to then be reserved as a down payment on the NBP's proposed universal service reforms, including the creation of the Mobility Fund to support mobile wireless broadband deployment in unserved areas.⁷ If the 2008 support estimate is extrapolated over a five-year period, the amount of support

⁴ See Federal Communications Commission, Request for Review of Decisions of Universal Service Administrator by Corr Wireless Communications, LLC. Order and Notice of Proposed Rulemaking. (rel. September 3, 2010) (Corr Wireless Order).

⁵ See Verizon Wireless Coverage Locator, <http://www.verizonwireless.com/b2c/CoverageLocatorController?requesttype=NEWREQUEST>. Accessed December 1, 2010; AT&T Wireless Coverage Viewer, <http://www.wireless.att.com/coverageviewer/#?type=voice&lat=40.3736&lon=-82.7755&sci=3>. Accessed December 1, 2010.

⁶ See *Corr Wireless Order* at 3, ¶ 4; NBP at.147.

⁷ *Id.* at 9, ¶ 20.

that will be surrendered equals approximately \$2.65 billion. The NPRM, however, proposes to use only \$100 - \$300 million of the surrendered support for the Mobility Fund.⁸ This range of proposed support represents only 3.8% to 11.3% of the total support which is projected to be surrendered over the five year period. The Ohio Commission recognizes that the entire \$2.65 billion will not be available at one time; however, the entire amount proposed for the Mobility Fund is likely to be less than what is surrendered the first year. Furthermore, the entire mobile wireless build-out and, consequently, the distribution of the projected support will not occur at one time but will also be spread over at least a portion of the five-year period as well. This will likely alleviate the need for an initial “payment” in excess of the first year’s surrendered support.

The Ohio Commission believes that the NPRM, to a certain extent, puts the proverbial “cart before the horse” in proposing the \$100 - \$300 million that it has proposed for the Mobility Fund since, by the NPRM’s own admission, the full scope of the project is unknown.⁹ The NPRM offers no estimates regarding the number and size of those areas without mobile wireless broadband coverage and will not have any such estimate until coverage data from American Roamer and population data from the Census Bureau is analyzed.¹⁰ Furthermore, the NPRM proposes using a reverse auction process to award support from the Mobility Fund,¹¹ which certainly means there could be a wide variance

⁸ NPRM at 4, ¶ 5.

⁹ *See id.* at 9, ¶¶ 20 - 23.

¹⁰ *Id.* at 4, ¶ 5.

¹¹ *Id.* at 18, ¶ 56.

in the levels of support awarded among unserved areas depending upon the outcomes of the various reverse auctions. The Ohio Commission recognizes that the support surrendered by Verizon Wireless and Sprint Nextel over the five-year period is to be used for broadband deployment efforts other than mobile wireless broadband;¹² nonetheless, it would seem that given the variables at play it may be premature to earmark such a small portion of the available funds toward mobile wireless broadband deployment.

Perhaps the Ohio Commission's concerns would be assuaged if there was some indication in the NPRM that additional funds may be made available should the amount proposed prove to be inadequate. The NPRM, however, implies that additional funds will *not* be forthcoming by stating that its objective for the Mobility Fund is to expand mobile wireless services to as much of the population deemed unserved *as possible*.¹³ It is certainly not unreasonable for one to take this as an admission that the Mobility Fund as proposed will not benefit all unserved areas. If the amount of support that is proposed in the NPRM proves to be insufficient to adequately fund mobile wireless broadband deployment, the Ohio Commission strongly urges the FCC not to take any additional support from the traditional high-cost fund, but instead, redirect a greater portion of the surrendered support toward the Mobility Fund.

¹² See Corr Wireless Order at 9, ¶ 20.

¹³ See NPRM at 8, ¶ 15.

III. Prioritization among Unserved Areas

The NPRM speaks of closing the “mobility gap” in a “fiscally responsible manner.”¹⁴ Consequently, the Ohio Commission presumes that, should the proposed funding be insufficient, any prioritization among unserved areas competing for funds would be undertaken with this principle in mind. As such, one might expect that the FCC would seek to get the “most bang for the buck” when allocating the finite resources of the Mobility Fund. The NPRM, however, suggests that funding may be targeted to those areas where mobile wireless broadband deployment significantly lags behind the percentage of nationwide population with mobile wireless broadband access, with the goal of directing support to those areas where deployment of advanced mobile wireless service is otherwise not likely to happen.¹⁵ The Ohio Commission respectfully suggests that this may not be the most fiscally responsible approach.

The NPRM implies that an area could “significantly” lag behind the nationwide level of mobile wireless broadband coverage if it is two to three percent below the nationwide deployment level.¹⁶ Using this definition, it is certainly foreseeable that a more sparsely populated area could “significantly” lag behind the percentage of the nationwide population with mobile wireless broadband access while a more densely populated area may not, yet there could be more actual individuals in the more densely populated who are without mobile wireless broadband access. Furthermore, it is also possi-

¹⁴ See NPRM at 2, ¶ 1.

¹⁵ See *id.* at 7, ¶ 11.

¹⁶ See *id.* at 11, ¶¶ 28 – 31.

ble that due to economies of scale and scope achieved by the service provider in the more densely populated area, it could, in fact, be more cost efficient to deploy mobile wireless broadband service in the denser area with more potential subscribers. While the FCC should consider how “significantly” an area lags behind the national percentage of those with mobile wireless broadband access, the Ohio Commission does not believe that this should be the sole determining factor. Rather, the Ohio Commission suggests that this factor be considered with and weighed against other factors such as road miles, traffic density and community anchor institutions as mentioned in the NPRM,¹⁷ as well as others such as cost, adoption rate in surrounding areas, projected growth/decline in population of the service area, and proximity to interstate and state highways. Perhaps the FCC should even consider conducting demand studies using a portion of the surrendered support to help determine those areas that would best be served by the Mobility Fund. Once determined, these factors must be applied and analyzed in a manner that allows the FCC to effectively prioritize the competing unserved areas. As an example, when evaluating the cost of expanding mobile wireless broadband into a particular unserved area, the FCC could consider the ratio of the dollars spent to the number of individuals who could be served. The ratio for a given unserved area could then be compared with the ratios for all of the other unserved areas to see where the largest benefits will be achieved for the dollars spent. Only through an inclusive approach such as this will the FCC be able to

¹⁷ NPRM at 10, ¶ 27.

ensure that mobile wireless broadband deployment is being undertaken in the most fiscally responsible manner.

IV. Reverse Auctions and ETC Designation

As noted in the introduction to these comments, the NPRM proposes using reverse auctions to make one-time support available to service providers for the deployment of mobile wireless broadband service in unserved areas.¹⁸ The Ohio Commission has supported the use of competitive bidding through reverse auctions in past comments¹⁹ and continues to believe that reverse actions provide a sound, fiscally responsible means for awarding support. To be eligible to bid in a reverse auction, however, the NPRM proposes that potential wireless broadband service providers first be designated as eligible telecommunications carriers (ETCs) by the state commissions for the states in which they wish to bid or by the FCC if a state commission has chosen not to designate ETCs. The Ohio Commission respectfully disagrees with this aspect of the NRPM's reverse auction proposal.

¹⁸ NPRM at 18, ¶ 56.

¹⁹ See, e.g., *In the Matter of High Cost Universal Support, Federal-State Joint Board on Universal Support*, Comments of the Public Utilities Commission of Ohio Regarding Reverse Auctions, WC Docket No. 05-337, CC Docket No. 96-45 (filed April 18, 2008); *In the Matter of High Cost Universal Support, Federal-State Joint Board on Universal Support*, Reply Comments of the Public Utilities Commission of Ohio Regarding High-Cost Universal Service Reform, Identical Support and Reverse Auctions, WC Docket No. 05-337, CC Docket No. 96-45 (filed May 27, 2008); *In the Matter of Connect America Fund, A National Broadband Plan for Our Future; High Cost Universal Service Support*, Initial Comments of the Public Utilities Commission of Ohio, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337 (filed July 14, 2010).

As the Ohio Commission had pointed out in past comments, it has, for public interest reasons, elected not to designate competitive carriers and service providers as ETCs for purposes of receiving high-cost support.²⁰ The Ohio Commission has long held that it makes little sense to provide multiple high-cost subsidies in those areas in which a business case cannot be made for offering service without a single subsidy.²¹ To a certain extent, the NPRM seems to agree with the reasoning of the Ohio Commission in that it proposes that there be only one supported carrier for each area.²² The NPRM fails, however, to address the unintended consequences that are likely to result from requiring ETC designation for all bidders in a reverse auction.

Wireless service providers designated as wireless ETCs may quite unexpectedly find themselves in the position of being a *de facto* provider of last resort should they win a reverse auction for Mobility Fund support. Such carriers would be the only provider of mobile wireless broadband service in their respective service areas under the proposal contained in the NPRM. Pursuant to the FCC's rules, if a carrier or service provider is designated as the ETC in a service area, it cannot simply relinquish this designation and

²⁰ See, e.g., *In the Matter of High Cost Universal Service Support, Federal-State Joint Board on Universal Service*, Initial Comments of the Public Utilities Commission of Ohio, WC Docket No. 05-337, CC Docket No. 96-45 (filed October 7, 2010).

²¹ See, e.g., *In the Matter of Connect America Fund, A National Broadband Plan for Our Future; High Cost Universal Service Support*, Initial Comments of the Public Utilities Commission of Ohio, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337 (filed July 14, 2010).

²² See NPRM, at 8 ¶ 15.

walk away from its service obligations.²³ Consequently, as the sole provider of mobile wireless broadband service in their respective service areas, these wireless ETCs would, in effect, be providers of last resort by default. The Ohio Commission does not believe this was the FCC's intent in requiring ETC designation.

Ohio, and possibly other states that may have elected not to designate multiple high-cost ETCs in a given service territory, may not be able to conduct reverse auctions for high-cost support. For a reverse auction, or any auction for that matter, to be successful, there must be multiple bidders. By requiring ETC designation before a service provider may bid in a reverse auction, the FCC is effectively limiting the number of potential bidders to one for states like Ohio that do not designate multiple high-cost ETCs. Such a requirement will, of course, render reverse auctions ineffective in those states. The Ohio Commission does not believe this to be the FCC's intent and would encourage the FCC to require ETC designation only *after* the service provider has won a reverse auction.

In the wake of the FCC's decision to grant forbearance to wireless service providers such as TracFone,²⁴ the Ohio Commission has had to distinguish between high-cost ETCs and Lifeline ETCs and has to date designated two competitive carriers as Lifeline

²³ 47 C.F.R. § 54.205(a) (2010).

²⁴ See *In the Matter of Federal-State Joint Board on Universal Service, Petition of TracFone Wireless for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, Order, CC Docket No. 96-45 (rel. September 8, 2005).

ETCs.²⁵ These ETCs receive no high-cost support from the USF, but are eligible to provide Lifeline service to qualifying subscribers and receive reimbursement from the fund. Unless such a distinction is made for wireless service providers wishing to bid in reverse auctions, these providers could offer wireless Lifeline services, including prepaid Lifeline service, to eligible subscribers and seek reimbursement from the fund. The recent proliferation of prepaid Lifeline service by ETCs has led to a dramatic increase in the size of the Lifeline fund²⁶ and raised numerous issues regarding customer eligibility, enrollment and verification, which are the subject of a recent Federal-State Joint Board on Universal Service recommended decision to the FCC as well as a commission ordered investigation in Ohio.²⁷ The Ohio Commission urges the FCC to take steps to protect the integrity of the Lifeline program while these issues are being addressed at both the federal and state level.

²⁵ See *In the Matter of Universal Service Discounts*, Application for Certification for Status as a Nonrural Eligible Telecommunications Carrier, Case No. 97-632-TP-COI (filed February 4, 2009); *In the Matter of the Petition of TracFone Wireless Inc.dba Safelink Wireless for Designation as a Nonrural Eligible Telecommunications Carrier*, Application for Certification for Status as a Nonrural Eligible Telecommunications Carrier, Case No. 10-614-TP-UNC (filed September 5, 2008).

²⁶ See United States Government Accountability Office, Report to Congressional Requesters, Telecommunications: Improved Managements Can Enhance FCC Decision Making for universal Service Fund Low Income Program (rel. October, 2010) available at <http://www.gao.gov/new.items/d11111.pdf>.

²⁷ See *In the Matter of Federal-State Joint Board on Universal Service Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision (rel. November 4, 2010); *In the Matter of the Commission Investigation into the Provision of Prepaid Lifeline Service by Competitive Eligible Telecommunications Carriers*, Case No. 10-2377-TP-COI (Entry) (November 3, 2010).

If states such as Ohio must designate multiple ETCs for the sole purpose of facilitating reverse auctions, there will potentially be numerous non-winning ETCs remaining following the auctions. In addition to offering Lifeline service, these ETCs may wish to provide service in high-cost areas and draw support from the traditional high-cost fund. Such an outcome would be at odds with the NBP's stated objective of phasing out high-cost support for competitive ETCs.²⁸

CONCLUSION

The Ohio Commission supports the FCC's efforts to expand mobile wireless broadband service using surrendered funds from Verizon Wireless and Sprint Nextel. The Ohio Commission believes that the Mobility Fund has the potential to bring advanced mobile wireless services to the unserved areas of Ohio and the rest of the nation as well as to allow for further innovation of next generation technologies in the future,

²⁸

See NBP at 147.

but encourages the FCC to consider any possible unintended consequences of the proposal. The Ohio Commission appreciates this opportunity to share its thoughts and recommendations pertaining to this proposal.

Respectfully submitted,

/s/ John H. Jones

John H. Jones
Counsel for the Public Utilities
Commission of Ohio

180 East Broad Street, 6th Floor
Columbus, Ohio 43215-3793
614.466.4393 (telephone)
614.644.8794 (fax)
john.jones@puc.state.oh.us

Your submission has been accepted

ECFS Filing Receipt - Confirmation number: 20101215323361

Proceeding

Name	Subject
10-208	In the Matter of Universal Service Reform Mobility Fund.

Contact Info

Name of Filer: John H. Jones
Email Address: john.jones@puc.state.oh.us
Attorney/Author Name: John H. Jones

Address

Address For: Filer
Address Line 1: 180 East Broad Street
Address Line 2: 6th Floor
City: Columbus
State: OHIO
Zip: 43215
+4: 3793

Details

Type of Filing: COMMENT

Document(s)

File Name	Custom Description	Size
Mobility Fund Comments 121510.pdf	Comments submitted on behalf of the Public Utilities Commission of Ohio	250 KB

Disclaimer

This confirmation verifies that ECFS has received and accepted your filing. However, your filing will be rejected by ECFS if it contains macros, passwords, redlining, read-only formatting, a virus, or automated links to other documents.

Filings are generally processed and made available for online viewing within one business day of receipt. You may use the link below to check on the status of your filing:

<http://fjallfoss.fcc.gov/ecfs/comment/confirm?confirmation=20101215323361>

For any problems please contact the Help Desk at 202-418-0193.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

12/15/2010 4:20:09 PM

in

Case No(s). 93-4000-TP-FAD

Summary: Comments submitted on behalf of the Commission to the FCC by John Jones on December 15, 2010, to be filed in WT Docket No. 10-208, In the Matter of Universal Service Reform Mobility Fund electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio