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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10-90, WT Docket No. 10-208; FCC 17-102]

Connect America Fund; Universal Service Reform—Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this Order on Reconsideration and Second Report and Order, the Commission adopts the parameters for the Mobility Fund Phase II challenge process, which will enable the Commission to resolve eligible-area disputes expeditiously. The 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.

DATES: The Commission adopted this Order on Reconsideration and Second Report and Order on August 3, 2017, and the parameters set forth therein for the Mobility Fund Phase II challenge process, along with all associated requirements also set forth therein, go into effect October 10, 2017, except for the new or modified information collection requirements in the challenge process that require approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing approval of those information collection requirements and the date they will become operative.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wireless Telecommunications Bureau, Auction and Spectrum Access Division, Jonathan McCormack or Audra Hale-Maddox, at (202) 418-0660. For further information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams at (202) 418-2918 or via the Internet at PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Order on

Reconsideration and Second Report and Order (*MF-II Challenge Process Order*), WC Docket No. 10-90, WT Docket No. 10-208, FCC 17-102, adopted on August 3, 2017 and released on August 4, 2017. The complete text of this document is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The complete text is also available on the Commission's Web site at http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0804/FCC-17-102A1.pdf. Alternative formats are available to persons with disabilities by sending an email to FCC504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules adopted in this document. The FRFA is set forth in an appendix to the *MF-II Challenge Process Order*, and is summarized below. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *MF-II Challenge Process Order*, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Paperwork Reduction Act

The *MF-II Challenge Process Order* contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new and modified information collection requirements contained in this proceeding.

Congressional Review Act

The Commission will send a copy of this *MF-II Challenge Process Order* in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), see 5 U.S.C. 801(a)(1)(A).

I. Introduction

1. In the *MF-II Challenge Process Order*, the Commission takes the next step to extend mobile opportunities to rural America by fulfilling its commitment to design a robust challenge process that will direct Mobility Fund Phase II (MF-II) support to primarily rural areas that lack unsubsidized 4G Long Term Evolution (LTE) service. The MF-II challenge process the Commission establishes will be administratively efficient, fiscally responsible, and will enable it 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.

II. Background

2. In February 2017, the Commission adopted rules to move forward expeditiously to an MF-II auction. The Commission established a budget of \$4.53 billion over a term of ten years to provide ongoing support for the provision of service in areas that lack adequate mobile voice and broadband coverage absent subsidies. The Commission further decided that geographic areas lacking unsubsidized, qualified 4G LTE service would be deemed "eligible areas" for MF-II support, and that it would use a competitive bidding process (specifically, a reverse auction) to distribute funding to providers to serve those areas. For the purposes of MF-II, the Commission defined "qualified 4G LTE service" as mobile wireless service provided using 4G LTE technology with download speeds of at least 5 Mbps. The Commission also decided that, prior to an MF-II auction, it would compile a list of areas that were presumptively eligible for MF-II support based on information derived from the Form 477 data submissions and high-cost support disbursement data available from the Universal Service Administrative Company (USAC), and it would provide a limited timeframe for challenges to those initial determinations during the pre-auction process.

3. In order to make more informed decisions on the challenge process, the Commission deferred deciding the specific parameters of the challenge process and instead sought additional comment. Among other things, the Commission sought comment in the

Mobility Fund II FNPRM, 82 FR 13413, March 13, 2017, on two potential options—called “Option A” and “Option B”—for a process to challenge the eligibility of areas for MF–II support. “Option A” and “Option B” varied in terms of the initial burdens for filing a challenge and the parameters for evidence submitted during the challenge. The Commission also solicited comment on any additional options and parameters for the MF–II challenge process and made clear that it was not proposing to adopt either “Option A” or “Option B” wholesale, intending instead to adopt the most effective approach and parameters to assemble a “best in class” structure for the challenge process. Seven petitions were filed seeking reconsideration of the *Mobility Fund II Report & Order*, 82 FR 15422, March 28, 2017, five of which directly bear upon the framework and design of the MF–II challenge process. The Commission addresses in the *MF–II Challenge Process Order* the portions of the five petitions asking for reconsideration of the framework and design of the challenge process. At this time, the Commission defers addressing the petitions, or portions thereof, requesting reconsideration of aspects of the *Mobility Fund II Report & Order* outside of the challenge process.

III. Order on Reconsideration

4. As necessary starting points for the challenge process, the Commission first resolves certain issues raised in petitions for reconsideration of the *Mobility Fund II Report & Order*. Specifically, the Commission reconsiders its decision to use Form 477 data as the basis for determining deployment of qualifying 4G LTE for the map of areas presumptively eligible for MF–II support, and instead grants, in part, a petition for reconsideration seeking a new, one-time collection of data to determine the deployment of qualified 4G LTE for the purposes of the MF–II challenge process. The Commission denies petitions to reconsider its adoption of a 5 Mbps download speed benchmark to identify areas eligible for MF–II support. The Commission also denies petitions for reconsideration that propose including technology choice or collocation as elements in such an eligibility determination.

A. Source of Coverage Data

5. The Commission reconsiders its decision to use Form 477 data as the basis for determining deployment of qualified 4G LTE for the map of areas presumptively eligible for MF–II. At the time of the *Mobility Fund II Report &*

Order, the Commission noted that, despite criticism of using Form 477 data, none of the commenters had identified a better available coverage data source to move forward expeditiously to implement MF–II.

6. A trade association now seeks reconsideration of the Commission’s decision to use Form 477 data to determine what areas are covered by qualified 4G LTE for purposes of identifying areas presumptively eligible for MF–II support. The trade association instead offers an industry consensus proposal asking that the Commission undertakes a new, one-time data collection with specified data parameters tailored to MF–II, thus addressing the lack of a better-tailored data source than Form 477.

7. After consideration of petitioner’s industry consensus proposal, as well as the record gathered in response to this issue, the Commission reconsiders its decision to use Form 477 data as the basis for determining deployment of qualified 4G LTE for the map of areas presumptively eligible for MF–II support. The Commission instead grants, in part, petitioner’s petition for reconsideration proposing a new, one-time collection of data to determine the deployment of qualified 4G LTE for the purposes of MF–II.

8. The Commission observes at the outset that the mobile deployment data collected on Form 477 represent a dramatic improvement over the deployment data previously available on a national scale. On reconsideration, the Commission acknowledges the concerns of commenters, and finds that the use of Form 477 data as the baseline, as currently filed, is likely to result in a significantly longer MF–II challenge process than if the Commission collected data consistent with the petitioner’s consensus proposal as the baseline for establishing which areas are presumptively eligible for support.

9. Given the negative impact that using Form 477 data could have in prolonging the MF–II challenge process, and after considering the possibility of quickly acquiring a better-tailored data source than Form 477, the Commission is persuaded by the weight of the record to adopt petitioner’s consensus proposal to undertake a new, one-time data collection of 4G LTE coverage maps based on the specific parameters the Commission adopts in the *MF–II Challenge Process Order*. For purposes of implementing MF–II expeditiously, this collection will provide the Commission and interested parties with the best available starting point for the challenge process. When combined with the high-cost subsidy disbursement data

available from USAC, the new data will form the basis of the map of areas presumptively eligible for MF–II support.

10. To reduce the burden on these providers, the Commission requires only those providers that have previously reported 4G LTE coverage in Form 477 and have qualified 4G LTE coverage based on the data specification described below to submit MF–II coverage data. Form 477 filers that do not provide qualified 4G LTE service at the speed benchmark and parameters for MF–II eligibility are not required to submit coverage data as part of the MF–II challenge process collection. Filers that provide service at the benchmark and parameters for MF–II eligibility must submit coverage data. The Commission will use these new coverage data, in conjunction with subsidy data from USAC, to create the map of areas presumptively eligible for MF–II support.

11. In reaching its decision to undertake this effort, the Commission finds that on balance the new coverage data it is collecting should reduce the need for challengers to perform more in-depth testing in certain areas or to file extensive challenges to large geographic areas. Thus, it should reduce the burden on challengers and providers that respond to challenges and allow the Commission to commence the MF–II auction more quickly. In addition, current 4G LTE providers have the best information concerning their coverage footprints based on their propagation models, spectrum, and network infrastructure, and thus are in the best position to provide the Wireless Telecommunications Bureau and the Wireline Competition Bureau (the Bureaus) with data already in their possession, tailored to the purposes of MF–II. This approach also allows the Commission to simplify the challenge process by allowing only challenges that qualified LTE coverage is overstated and not also challenges that such coverage is understated. This approach also permits the Commission to establish various bright line rules for evaluation of the new coverage submissions and of certain challenges that should expedite the final resolution of areas eligible for MF–II support.

12. The Commission also wishes to make clear that only the extent of qualified 4G LTE coverage can be challenged in the challenge process; its decision in the *Mobility Fund II Report & Order* to rely on USAC high-cost support data for determinations of which areas with 4G LTE coverage are unsubsidized remains unchanged, and subsidy data or determinations are not

subject to challenge. In sum, the required data should allow the Commission to achieve its policy goal of proceeding expeditiously to an MF–II auction. Compliance with the required data collection adopted in the *MF–II Challenge Process Order* is mandatory, and failure to comply may lead to enforcement action, including forfeiture penalties, pursuant to the Communications Act and other applicable law.

B. 5 Mbps Download Speed Benchmark for Identifying Areas Eligible for MF–II Support

13. The Commission affirms that it will use a 5 Mbps download speed benchmark to determine what coverage counts as qualified 4G LTE for the purpose of identifying areas eligible for MF–II support. Using a download speed benchmark of 5 Mbps supports the Commission's primary policy goal of directing its limited MF–II funds to address 4G LTE coverage gaps and expanding 4G LTE coverage to areas that the private sector will not serve without government subsidies.

14. Four petitioners seek reconsideration of some aspect of the Commission's decision to use a 5 Mbps download speed as the benchmark to determine what coverage counts as qualified 4G LTE for the purpose of identifying areas eligible for MF–II support.

15. Despite the fact that providers have used different standards and methodologies to report coverage in their Form 477 data, the nationwide carriers are all generally reporting minimum advertised download speeds of 5 Mbps for their 4G LTE network coverage. Carriers' advertised speeds demonstrate that a consumer can reasonably expect to receive 4G LTE service at a download speed of 5 Mbps in both rural and urban areas. The Commission previously noted that "commenters generally did not discuss the technical requirements of 4G LTE service" but did cite multiple comments on the performance requirement for MF–II recipients. Commenters consistently cited 5 Mbps download as consistent with 4G LTE service but differed on whether a 10/1 Mbps requirement was too aggressive. Similarly, the *2016 Broadband Progress Report* found that, even in urban areas, 119.3 million Americans (45 percent) still lack access to 4G LTE with a minimum advertised speed of 10/1 Mbps. Thus, establishing a download speed of 10 Mbps for identifying areas eligible for MF–II support would not reflect the typical consumer experience in urban and rural areas and would

direct the Commission's limited funds to areas that are already being served at speeds that are reasonably comparable to what is available in urban areas. The Commission's analysis of available data and the record reflects that consumers in urban areas generally have access to 4G LTE service at a download speed of 5 Mbps. Therefore, this benchmark, coupled with the parameters the Commission adopts in the *MF–II Challenge Process Order*, serves as a reasonable basis for its analysis of what areas are currently lacking unsubsidized service at an equivalent level.

16. The purpose of the eligibility benchmark is to determine at the outset of MF–II which areas lack service reasonably comparable to current service because they are uneconomic to serve and require subsidies to achieve 4G LTE service. In contrast, the performance benchmark for an MF–II recipient ensures that the Commission's limited universal service funds are used in a fiscally responsible manner to assure that service in eligible areas is reasonably comparable to urban offerings in the future. Setting the eligibility benchmark the same as the performance benchmark would have the counterproductive effect of directing subsidies to areas that are already receiving high levels of service, and consequently providers in those areas could potentially achieve the performance objective in the first year of a ten-year support program. Different eligibility and buildout requirements are consistent with past Commission decisions in the universal service context, and they serve "our objective of ensuring that we target our finite budget to where it is most needed." To accomplish this objective, the Commission must exercise its discretion to balance competing universal service principles of promoting nationwide deployment of high-speed mobile broadband and spending limited universal service funds in a cost-effective manner.

17. The Commission also rejects petitioners' assertions that it did not provide sufficient analysis to justify using the 5 Mbps download speeds as the eligibility benchmark in light of its expectation that areas found to be ineligible for MF–II support are likely to see improvements in the coming years. The Commission's objective in MF–II, in accordance with the *USF/ICC Transformation Order*, 76 FR 73829, November 29, 2011, is to subsidize reasonably comparable service in unserved areas, not to subsidize competition. The Commission anticipates that to the extent an area is served by an unsubsidized provider

offering qualified 4G LTE service such that the area is not eligible for MF–II support, that unsubsidized service provider will have incentives to continue to invest in its network to maintain and expand its current market position. In addition, the Commission anticipates that as the infrastructure to support high levels of service develops over the ten-year term of MF–II support, the incremental costs of upgrades to service in ineligible areas will become lower, further facilitating improvements in those areas. Even if incentives to invest in unsubsidized areas were lower, with all things being equal, these lower upgrade costs would help offset that effect, and would incentivize service providers to increase their speed offerings in those areas. Furthermore, the Commission notes that the cost of upgrading service is significantly lower than the cost of building a new network in unserved areas or filling in coverage gaps in areas with significant coverage, and thus the Commission anticipates that incentives will continue to encourage upgrades to existing network deployments in unsubsidized areas. Accordingly, the Commission expects reasonable service improvements in ineligible areas because private actors have already demonstrated in the marketplace that they have an incentive to invest in those areas without federal support.

18. Lastly, the Commission declines to adopt an upload speed benchmark to identify areas eligible for MF–II support. Given the nature of mobile wireless deployment and the interplay between download and upload speeds when designing and optimizing an LTE network, there is no single upload edge speed that corresponds to a 5 Mbps download speed. One party, however, has submitted recent LTE speed measurement results showing that with 1 Mbps as the 10th percentile of the upload speed distribution, the standard national compliance, at the non-MSA (metropolitan statistical area) and MSA level, only ranges from approximately 5 percent to 12 percent. This suggests that a cell edge 1 Mbps upload speed standard requirement would exceed the upload speeds of most current LTE service areas. Thus, including a 1 Mbps upload speed benchmark could make eligible for support most areas with current LTE service at download speeds of 5 Mbps. Finally, the Commission also finds that the additional upload speed standard would add unnecessary complexity to the already complex challenge process. The Commission concludes that including a 1 Mbps upload speed benchmark for

determining areas eligible for MF–II support would be contrary to its policy goal of directing its limited MF–II resources to areas of the country that lack sufficient services because such a benchmark would expand the areas eligible for support to include areas that already have 4G LTE service, without any countervailing benefit to consumers.

C. Considering Incompatible Technologies in Determining Eligible Areas

19. The Commission affirms the conclusion it reached in the *Mobility Fund II Report & Order* that areas with unsubsidized, qualified 4G LTE service are not at risk of losing service and therefore should be ineligible to receive support, regardless of whether the areas have networks that are compatible with both GSM and CDMA. The Commission further affirms its earlier finding that it should not condition limited MF–II support on a requirement that newly deployed 4G LTE networks be backwards compatible with GSM and CDMA network technologies that are being phased out by the marketplace.

20. Two petitioners now seek reconsideration of this issue; they argue that areas that do not have both GSM and CDMA coverage by unsubsidized providers should be eligible for MF–II support. The Commission denies the petitions for reconsideration of this issue. Efficiently distributing MF–II funds and expanding coverage are the Commission’s priorities, and it must balance these policy goals against an issue that even one petitioner notes “is one that time and ubiquitous VoLTE deployment will eventually solve.” In the face of a diminishing technological issue, the Commission directs MF–II support in a fiscally-responsible manner by focusing on areas that lack unsubsidized, qualified 4G LTE coverage without considering whether older technologies are compatible. The Commission’s gradual phase down of legacy support will provide consumers and carriers with time to complete the transition to newer technologies.

D. Considering Collocation in Determining Eligible Areas

21. The Commission also denies a petitioner’s request that it reconsider the basis on which it determines whether qualified 4G LTE deployed in an area is subsidized or unsubsidized. Consistent with the Commission’s earlier conclusion, the Commission affirms that it will determine whether a provider that deploys qualified 4G LTE in an area is subsidized or unsubsidized based only on whether it receives high-cost

support for that area using USAC high-cost disbursement data, as described in the *MF–II Challenge Process Order*, and not based on whether that provider collocates equipment on a tower of another provider receiving universal service support. In addition, the Commission will not consider government subsidies other than legacy mobile wireless CETC high-cost support and MF–I support in determining whether a provider’s qualified 4G LTE is subsidized.

22. The Commission also notes that the Commission has not collected and does not intend to collect the tower-by-tower data that would be necessary to conduct the analysis proposed by the petitioner because the possible benefits of collecting that data appear small compared to the significant costs of collection and analysis. As part of their Form 477 data filings, mobile wireless carriers submit maps that depict coverage without distinguishing between carrier-owned and collocated facilities. As discussed in the *MF–II Challenge Process Order*, based on a new, one-time filing of coverage maps provided under standardized parameters, the Commission will determine 4G LTE coverage and establish the areas presumptively eligible for MF–II support. Determining whether coverage depicted in the standardized coverage maps is provided through collocation on an area-by-area basis would be inconsistent with the Commission’s decision to base MF–II eligibility strictly on the absence of unsubsidized, qualified 4G LTE, and doing so would impose a significant burden on both carriers and the Commission.

IV. Second Report and Order

23. Consistent with the Commission’s overarching objective to transition quickly away from the legacy CETC support system, it adopts a streamlined challenge process that will efficiently resolve disputes about areas deemed presumptively ineligible for MF–II support. Based on the Commission’s review of the record and its comprehensive evaluation of the advantages and disadvantages of the various proposals, the Commission concludes that the approach it adopts will both promote fairness and minimize burdens on interested parties.

24. Under the adopted approach, the Commission will begin with a new, one-time collection of 4G LTE coverage data, which will be used to establish the map of areas presumptively eligible for MF–II support. Specifically, the Commission will require providers to file propagation maps and model details

with the Commission indicating their current 4G LTE coverage, as defined by download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent cell loading factor.

25. An interested party (the challenger) will have 150 days to initiate a challenge of one or more of the areas initially deemed ineligible in the Commission’s map of areas presumptively eligible for MF–II support (the challenge window). Prior to the close of the challenge window, a challenger may use USAC’s online challenge portal (the USAC portal) to (1) access confidential provider-specific information for areas it wishes to challenge; (2) identify the area(s) it wants to challenge; (3) submit evidence supporting the challenge; and (4) certify its challenge for the specified area(s). After agreeing to treat the data as confidential, challengers will be able to access via the USAC portal (a) the underlying provider-specific coverage maps submitted as part of the new data collection; (b) the list of pre-approved provider-specified handsets with which to conduct speed measurements; and (c) any other propagation model details collected as part of the new data collection. To certify a challenge, a challenger will be required to identify the area(s) within each state that it wishes to challenge and submit actual outdoor speed test data collected using standardized parameters. Challengers will submit their challenges via the USAC portal. The Commission directs the Bureaus to work with USAC to establish the USAC portal through which a challenger will be able to access the confidential provider-specific information that is pertinent to the challenge, as well as submit its challenge, including all supporting evidence and required certifications.

26. Once a challenger submits its evidence in the USAC portal, the system will conduct an automatic validation to determine whether the challenger provided sufficient evidence to justify proceeding with each submitted challenge. In the event the data fail automatic validation for an area, the system will flag the problem for the challenger. If the failure occurs while the challenge window is still open, the challenger may submit additional or modified data, or modify its challenged area contours, as required, to resolve the problem. Once the challenge window closes, however, the challenger will have no further opportunity to correct existing, or provide additional, data in support of its challenge. Only those challenges to areas that are certified by a challenger at the close of the window will proceed.

27. A challenged party will have an opportunity to submit additional data via the USAC portal in response to a certified challenge (the response window). If a challenged party does not oppose the challenge, it does not need to submit any information. After the response window closes, Commission staff will adjudicate certified challenges and responses.

28. The Commission finds that, in conjunction with the new data collection, this framework for the MF-II challenge process appropriately balances the need for accuracy against the burdens imposed on interested parties. The Commission anticipates that using standardized new coverage data as the basis for its initial eligibility map will improve the accuracy and reliability of the information available to potential challengers, which should result in fewer, more targeted challenges and should reduce the administrative burdens on Commission staff, challengers, providers, and other stakeholders. Requiring challengers to submit proof of lack of unsubsidized, qualified 4G LTE coverage should deter frivolous challenges based on anecdotal evidence and, thereby, expedite the challenge process. Moreover, allowing, but not requiring, challenged parties to submit data in response to a challenge will both promote fairness and minimize burdens on interested parties.

29. The Commission directs the Bureaus to issue a public notice or order (following the Bureaus' issuance of a notice and opportunity for comment) detailing instructions, deadlines, and requirements for filing a valid challenge, including file formats, parameters, and other specifications for conducting speed tests.

A. Parameters for Generating Initial Eligible Areas Map

30. In the new, one-time MF-II data collection, the Commission will require providers to file propagation maps and model details with the Commission indicating their current 4G LTE coverage, as defined by download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent cell loading factor. The Commission finds that a download speed of 5 Mbps with 80 percent cell edge probability, which is equivalent to approximately 92 percent cell area probability, and a 30 percent cell loading factor, strikes a reasonable balance between expanding LTE into unserved areas and enhancing existing suboptimal LTE service areas, which promotes the optimal use of limited public funds.

31. The Commission acknowledges that the 80 percent cell edge probability

and 30 percent cell loading factor parameters required for the data collection are lower than those proposed in the industry consensus proposal. Adopting the higher cell edge probability and cell loading factor parameters in the industry consensus proposal, however, would increase the likelihood that MF-II funds would be directed to areas that already meet the MF-II performance requirement of a 10 Mbps median download speed. One wireless provider submitted recent LTE speed measurement data analysis based upon nationwide wireless provider performance in specific states. The analysis showed that in some cases less than 2 percent of the data points achieved a 5 Mbps download speed 90 percent of the time. Indeed, the Commission estimates that the cell area median download speed in the cell areas associated with the industry consensus proposal's proposed parameters would be significantly in excess of 10 Mbps and therefore higher than the MF-II performance requirement. In fact, the Commission estimates that areas larger than industry consensus proposal's proposed cell areas would have median download speeds in excess of 10 Mbps. The Commission's analysis shows that the 80 percent cell edge probability it adopts corresponds with a 92 percent cell area probability, which means users would have a greater than 90 percent chance of achieving a download speed of at least 5 Mbps across the entire coverage area of a cell. In addition, these parameters exceed the parameters that wireless operators typically use when deploying networks into previously-unserved areas (greenfield builds) of 75 percent cell edge probability and 90 percent cell area probability. In light of the difficulties of precisely determining the coverage areas where service with a minimum download speed of 5 Mbps is available, the Commission finds that a cell edge probability of 80 percent and a cell area probability of 92 percent appropriately balance the concern of misrepresenting coverage with its priority of directing its limited universal service funds on areas most in need of support. Further, adoption of the industry consensus proposal's proposed parameters would likely result in MF-II support being used to upgrade or over-build current 4G LTE networks rather than to expand 4G LTE coverage to unserved areas.

32. In addition, the Commission believes that a 30 percent cell loading factor in rural areas is more appropriate for MF-II purposes than the industry consensus proposal's proposed 50

percent cell loading factor, which is more typical in non-rural areas where there is more uniform traffic. Typical cell site density in rural areas is much lower than in urban areas, resulting in an overall lower interference environment. Additionally, when compared to urban and suburban areas, rural areas typically have lower amounts of uniform traffic among cells because of the varied population distribution across cells, lower numbers of simultaneous users, and lower overall demands on the network over time. As such, cell loading is typically lower in rural areas than in urban and suburban areas. The lower cell edge probability and cell loading factor parameters for the data collection will likely decrease the eligible areas and target the limited MF-II funds to more areas that are currently unserved or served by 4G LTE networks with a median download speed below 10 Mbps. If the Commission was to adopt a lower cell edge probability, it would unnecessarily risk focusing funds on the costliest to serve areas, thus decreasing the square miles receiving support in the auction and consequently reducing the cost effectiveness of the MF-II program. A lower cell edge probability requirement would likely decrease the eligible areas with marginal LTE coverage. Thus, using its predictive judgment, the Commission finds that these parameters meet its standards for the availability of coverage and are best suited to advancing its goals for MF-II.

33. The Commission recognizes that some may have concerns about the effect of the parameters it adopts on the availability of certain mobile applications, for instance telemedicine and precision agriculture, in rural areas. The Commission believes those concerns are misplaced. Remote monitoring and diagnosing of medical conditions and precision agriculture, which uses satellite GPS positioning and remote sensors in farming operations, are typically lower-bandwidth, machine-to-machine applications and should not significantly increase the overall cell loading or require speeds greater than 5 Mbps. Further, the Commission believes that focusing its limited funds on expanding service to the areas that currently lack 4G LTE service is the best way to increase the availability of these services in rural areas. Applying a higher cell loading factor more typical of an urban or suburban area or increasing the cell edge probability even further is more likely to direct funds to more areas that already have coverage

that can support telemedicine and precision agriculture applications.

34. As one party proposed, filers shall report an outdoor level of coverage. The coverage boundaries shall have a resolution of 100 meters (approximately three arc-seconds) or better, and shall likewise use an appropriate clutter factor and terrain model with a resolution of 100 meters or better. In addition, filers shall use the optimized RF propagation models and parameters used in their normal course of business. The Commission directs the Bureaus to specify what other propagation model details and parameters must be filed alongside such propagation maps in a subsequent public notice. In addition to submitting propagation maps and model details of 4G LTE coverage, providers shall report the signal strength (RSRP) and clutter factor categories used to generate their coverage maps. If the signal strength in the coverage maps varies regionally, then such variations must be reported. The providers must report the loss value associated with each clutter factor category used in their coverage maps. Additionally, providers shall submit a list of at least three readily-available handsets that challengers can use to conduct speed tests, as well as a certification, under penalty of perjury, by a qualified engineer that the propagation maps and model details reflect the filer's coverage as of the generation date of the map in accordance with all other parameters. The Commission clarifies that the handsets identified by providers must include at least one compatible with industry-standard drive test software. The Bureaus will issue further guidance or requirements on the handsets that may be used for speed tests in a subsequent public notice.

35. The Commission finds that requiring a specific signal strength benchmark, as sought by several commenters, is not necessary for these propagation maps because the cell edge speed threshold requirement subsumes a specific signal strength value depending on specific operating signal bandwidth and the network deployment configurations. A 10 MHz bandwidth has double the noise power of the 5 MHz bandwidth; thus, it requires higher signal strengths for the same signal quality (SNR) requirement. The thermal noise power equation indicates that noise power is directly proportional to the bandwidth. The Commission's analysis comparing results of theoretical propagation models and actual speed test data indicates that the signal strength parameter in propagation models may not be closely correlated with actual on-the-ground data in a

particular geographic area. As a result, and in light of the differing technical characteristics of service providers' LTE deployments, the Commission decides to benchmark download speed, which is what the customer receives, rather than signal strength, to determine whether a particular geographic area is eligible or not for MF-II support. With this in mind, the Commission sets the download speed at 5 Mbps at 80 percent probability, and will evaluate challenges on the basis of measured download speeds. In other words, the topography of an area as well as summer foliage may lead to differences between expected signal strength and the actual experienced speed of consumers. Thus, the Commission's cell edge speed threshold requirement should result in more accurate data in America's deserts, prairies, rolling hills, mountains, and forests than an across-the-board signal strength parameter. The Commission is mindful, however, of the concerns of some providers regarding signal strengths, and the Commission will, as noted above, require providers to report signal strength with their coverage maps. The signal strength information will be available to challengers. When issuing filing instructions, the Commission directs the Bureaus to explain what additional parameters (such as signal strength and clutter categories) and information must be included with coverage map filings, and subsequently disclosed to challengers in the challenge process.

36. In a public notice to be released later in the MF-II process, the Commission directs the Bureaus to provide instructions for how to file the data submission, including a data specification, formatting information, and any other technical parameters that may be necessary for such filings. In order to provide ample time for carriers to generate data in accordance with these parameters, the Commission directs the Bureaus to set the deadline for carriers to submit data for the one-time data collection at least 90 days after the release of the filing instructions public notice.

B. Interested Parties Eligible To Participate

37. Based on the Commission's experience in the challenge processes for MF-I and CAF-II, and after carefully weighing the record on this issue, the Commission concludes that government entities (state, local, and Tribal) and all service providers required to file Form 477 data with the Commission are best suited to participate as challengers in the MF-II challenge process. Allowing these interested parties to participate in

the challenge process satisfies the Commission's policy goal of administrative efficiency because they are most likely to be able to acquire the requisite data sufficient to support a valid challenge and, in many cases, are already familiar with filing data with USAC. Many Form 477 filers have a pre-existing relationship (*i.e.*, an account) with USAC because they are required to make filings on a regular basis with USAC. To the extent that any Form 477 filer or government entity eligible to participate does not have an account with which to authenticate against the USAC single sign-on system by the time the USAC portal opens, such interested parties will be required to request an account. The Commission directs the Bureaus to detail this process along with other instructions to file a valid challenge in a subsequent public notice.

38. As a practical matter, the Commission does not expect that an individual consumer would have the time, ability, or resources to file a valid challenge. Instead, the Commission anticipates that an individual consumer will be best served by participating in the MF-II challenge process through his or her state, local, or Tribal government entity. This expectation is supported by past practice before the agency, as individual consumers did not file challenges in either the MF-I or CAF proceedings. If, however, a consumer, organization, or business believes that its interests cannot be met through its state, local, or Tribal government entity, and it wishes to participate in the process as a challenger, it is free to file a waiver with the Commission for good cause shown, either on its own or with the assistance of an organization. Waivers may be submitted by email to auction904@fcc.gov or delivered in hard copy to Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, FCC, 445 12th Street SW., Room 6-C217, Washington, DC 20554. The Commission anticipates granting waivers in cases in which an individual, organization, or business demonstrates a bona fide interest in the challenge process and a plausible ability to submit a valid challenge. And the Commission encourages state commissions, state-level broadband deployment offices, county and municipal executives and councils, Tribal governments, and other governmental entities to participate robustly in the challenge process to ensure that the Commission's information about where service is or is not available is as accurate as possible.

39. Moreover, given the improvements the Commission expects to see in the standardized information

that will be collected for MF–II purposes, it anticipates that there should be less concern associated with eligible area determinations, which, in turn, should reduce the likelihood that individual consumers should have to bear the burden of seeking to participate in the process. As the Commission explained in the *Mobility Fund II FNPRM*, “the challenge process must not impede the implementation of MF–II support.” The Commission’s decision therefore fosters its commitment to designing a challenge process that is as efficient and open as possible.

C. Types of Challenges

40. Because the Commission is undertaking a new collection of standardized, more reliable, and more recent 4G LTE coverage data, it will only permit challenges for areas that the Bureaus identify as ineligible for MF–II support. The Commission anticipates that a party that submits a challenge for an eligible area will likely be the unsubsidized service provider that submitted and certified the data used to make the initial eligibility determination for the challenged area. As such, the challenge would consist of nothing more than an update to or correction of the coverage data submitted by the unsubsidized service provider during the new data collection in compliance with the Commission’s new requirements. Since, under the framework the Commission adopts, service providers will be required to update their coverage data shortly before the start of the challenge process, permitting such “corrections” within the challenge process would be administratively inefficient and unnecessarily delay the deployment of MF–II support. The Commission is confident that the new data collection will give providers ample opportunity to correct and/or update the coverage data previously provided via Form 477. Therefore, the Commission will not permit challenges for areas that the Bureaus identify as eligible for MF–II support.

D. Restricting De Minimis Challenges

41. As part of the framework the Commission adopts for the MF–II challenge process, it will limit challenges to *de minimis* geographic areas to increase the efficiency of the challenge process and reduce the administrative complications of resolving challenges for very small coverage gaps. Challengers will not be required to match up challenged areas to census blocks or census block groups (CBGs). The Commission believes this change will ease the filing burden on

challengers because the data required will align more closely with data already collected and maintained in the normal course of business. Consistent with this approach, the Commission will not link *de minimis* challenges to CBGs, because a significant portion of CBGs are small enough (less than 1 square kilometer) that establishing a minimum area for challenges as a portion of a CBG would make the *de minimis* challenge area so small as to be inconsequential for improving efficiency in the challenge process. Accordingly, the Commission will require only that any challenged area be of a minimum size of at least one square kilometer. Ineligible areas of less than one square kilometer can be subject to challenge insofar as they are part of a challenge where the total size of areas being challenged exceeds the *de minimis* size requirement. This minimum size requirement will prevent challenges solely regarding minor, patchy areas often at the edge of a covered area, which aligns with the overall goal of using MF–II funds to expand service to unserved areas.

E. Data Required for Submission of Challenge

42. The Commission finds that a challenger must submit detailed proof of lack of unsubsidized, qualified 4G LTE coverage in support of its challenge. For each state, a challenger must identify the specific area(s) it wants to challenge and submit actual outdoor speed test data that satisfy the parameters the Commission adopts in the *MF–II Challenge Process Order*, as well as any other parameters that the Commission or Bureaus may implement. If the challenged area(s) extend across state borders, a challenger will need to initiate separate challenges for each state into which the challenged area(s) extend. The speed test data must be collected using the latest devices specifically authorized by the providers that submitted 4G LTE coverage data in response to the new, one-time data collection discussed above (*i.e.*, provider-specified handsets). The Commission finds that such “on the ground” data collected using standardized parameters are a reliable form of evidence because they simulate consumers’ actual experience.

43. These requirements strengthen the Commission’s ability to design an administratively efficient challenge process that does not impede implementation of MF–II. The Commission finds that requiring challengers to submit detailed proof of lack of unsubsidized, qualified 4G LTE coverage instead of “anecdotal

evidence” is fair, minimizes the burden on providers and Commission staff, and should help deter excessive and unfounded challenges that could delay the deployment of MF–II support. The Commission agrees with several commenters that requiring actual speed test data will not impose an excessive burden on challengers, including small carriers. The Commission expects that challenged areas will be sufficiently circumscribed that challengers will not need to collect speed test data over unnecessarily large areas. Further, the Commission expects that small carriers are likely to already own drive test equipment. To the extent they do not, the Commission’s decision to allow application-based tests provides a less expensive and more mobile means of collecting data. Thus, the Commission declines to allow a challenger to initiate the challenge process with an unsubstantiated good-faith assertion of lack of unsubsidized, qualified 4G LTE coverage.

1. Standard Parameters

44. Although the Commission agrees with commenters that some flexibility with testing standards is warranted, it finds it necessary to adopt clear guidance and parameters on speed test data to ensure that the evidence submitted by challengers is reliable, accurately reflects consumer experience in the challenged area, and can be analyzed quickly and efficiently. As a preliminary matter, the Commission will allow challengers to submit speed data from hardware- or software-based drive tests or application-based tests that cover the challenged area. To minimize the burdens on challengers, the Commission will not require that an independent third party conduct the speed tests. The Commission will require that all speed tests be conducted pursuant to standard parameters using Commission-approved testing methods on pre-approved handset models. Accordingly, the Commission expects that it would be difficult to manipulate the data collected regardless of whether a challenger uses drive-based or application-based tests as both types of tests can automatically generate data reports that can conform to the specifications for the data submission. The Commission will, however, require that the speed test data be substantiated by the certification of a qualified engineer or official under penalty of perjury. For challengers that are governmental entities and do not have a qualified engineer available to certify, the Commission will allow certification by a government official authorized to act on behalf of the organization and

with actual knowledge of the accuracy of the underlying data.

45. A challenger must provide proof of lack of unsubsidized, qualified 4G LTE coverage in the form of measured download throughput test data for each of the unsubsidized providers claiming qualified 4G LTE coverage in the challenged area. As part of the new MF-II data collection, the Commission will require service providers with qualified 4G LTE coverage to identify at least three readily available handset models appropriate for testing those providers' coverage. The Commission will require providers to specify at least one handset that is compatible with industry-standard drive test software. The Commission directs the Bureaus to propose and adopt further guidance on the types of devices that may be used for speed tests in the subsequent public notices. Challengers electing to use application-based tests and software-based drive tests must use the applicable handsets specified by each unsubsidized service provider with coverage in the challenged area. In addition, to accurately reflect consumer experience in the challenged area, the challenger must purchase an appropriate service plan from each unsubsidized service provider in the challenged area. An appropriate service plan would allow for speed tests of full network performance, *e.g.*, an unlimited high-speed data plan. If there are multiple unsubsidized service providers in the challenged area, the challenger must purchase service plans that are comparable (*i.e.*, similar with respect to services provided).

46. All speed tests must be conducted between the hours of 06:00 a.m. and 12:00 a.m. local time, when consumers are most likely to use mobile broadband data. To ensure that the speed test data reflect consumer experience throughout the entire challenged area, a challenger must take speed measurements that are no more than a fixed distance apart from one another within the challenged area, and which substantially cover the entire area. The Commission directs the Bureaus to adopt the specific value for the maximum distance between speed tests after seeking comment in a subsequent public notice. This value will be no greater than one mile. This requirement serves as an upper bound, and a challenger will be free to submit measurements taken more frequently. While the Commission declines to adopt the specific parameter here, it is convinced that a value within this range will strike the correct balance between the benefits of increased accuracy, and the harms of burdens on small carriers and to the efficient administration of

challenges. The Commission also agrees with one commenter that the data should reflect recent performance. However, given upcoming, expected deployment of new 4G LTE service in conjunction with the Commission's decision to perform a new data collection, the Commission is concerned that speed measurements taken before the submission of updated coverage maps may not reflect the current consumer experience. Thus, the Commission will only accept data that were collected after the publication of the initial eligibility map and within six months of the scheduled close of the challenge window.

47. The Commission directs the Bureaus to seek comment on and to implement any additional parameters and/or to require the submission of additional types of relevant data, such as signal strength tests, and then to implement any such parameters or requirements as appropriate to ensure that speed tests accurately reflect consumer experience in the challenged area, by issuing an order or public notice providing detailed instructions, guidance, and specifications for conducting speed tests.

2. Validation of Challenger's Data

48. The Commission adopts a general framework for automatic system validation of a challenger's evidence, and it directs the Bureaus to work with USAC to implement specific parameters for the validation process. Using an automated process is the most efficient way to evaluate the data submitted by a challenger because it ensures that the objective validation criteria are applied consistently across every challenge.

49. Under this approach, at the outset the USAC system will superimpose each identified challenged area on the initial eligibility map and will remove any portions that overlap eligible areas. If a challenged area meets the *de minimis* area threshold, that challenge will proceed. If it does not meet the threshold, the system will flag the failure and will not accept that challenge for submission unless and until the challenger submits during the challenge window new data that meet the threshold.

50. Next, the USAC system will analyze the geographic coordinates of the points at which the challenger conducted the speed tests and will validate that the data associated with each speed test point meet the specifications for speed tests. To be counted towards a valid challenge, the speed test must record a download speed less than 5 Mbps (counted speed tests) and meet all other standard

parameters. In order to implement the requirement that the tests substantially cover the entire challenged area and that each point is no more than a fixed distance apart, the system will create a buffer (*i.e.*, draw a circle of fixed size) around each counted speed test point and calculate the area of these buffered points (speed test buffer area). The system will apply a buffer with a radius equal to half of the maximum distance parameter, and will trim any portion of the buffer that is outside of the challenged area. In addition, where a challenged area overlaps the submitted coverage map of more than one incumbent provider, the system will require counted speed tests for each provider in order to calculate the speed test buffer area. For each challenged area, if the speed test buffer area covers at least 75 percent of the challenged area, the challenge will pass validation, and once certified, these challenged area(s) will be presented to the incumbent provider(s) for a response. The area of a circle with diameter superimposed on a square with width is approximately 78.5 percent, therefore setting the validation threshold at 75 percent area coverage ensures that speed measurements conducted no more than a fixed distance apart from one another in a challenged area are sufficient to establish coverage of the entire area, when each measurement point is buffered by a radius of half of the fixed distance parameter. If the speed test buffer area does not cover at least 75 percent of the challenged area, the challenge for that area will fail validation unless the challenger submits new evidence or modifies its challenge during the challenge window such that it meets the 75 percent threshold.

51. The USAC system will require speed tests to substantially cover the entire challenged area (*i.e.*, 75 percent) regardless of any characteristics of the area, including whether any part of the area is inaccessible due to terrain, private property, or other reason. The Commission declines to provide any special accommodations for a challenger to indicate that it was unable to access any part of the challenged area. Challengers have the burden of proving that an area deemed ineligible is, in fact, not covered by at least one carrier providing qualified, unsubsidized 4G LTE service. Providing special accommodations that would relieve challengers of the need to furnish actual evidence would be inconsistent with this decision, would be difficult to administer, and would increase the likelihood of gamesmanship, none of which further the Commission's goal of

conducting a fair and efficient challenge process in a timely manner. The Commission notes that while the system will not provide any special accommodations, challengers may still include areas with inaccessible land in their challenges so long as the submitted speed measurements otherwise meet the validation threshold showing that 75 percent of the area has insufficient coverage. Moreover, this decision is confined only to the challenge process; a bidder in the MF-II auction may still bid for support to serve eligible areas that include land that may be inaccessible. A bidder that ultimately wins support to serve an area with inaccessible lands will remain responsible for demonstrating its performance in serving that area.

52. Each challenged area that meets the *de minimis* threshold will be considered individually. Challenged areas that meet the validations, including the 75 percent speed test buffer area overlap, will proceed once certified by the challenger. The USAC system will determine which portions of a challenged area overlap which 4G LTE providers, and respondents will see only those challenged areas and speed test buffer areas that overlap their 4G LTE coverage.

F. Opportunity To Respond to Challenges

53. The Commission will provide challenged parties a limited opportunity to submit additional data in response to a challenge. The Commission finds that this approach promotes its goals of a fair and fiscally responsible MF-II program while minimizing the burdens on challenged parties. Giving challenged parties an opportunity to contest a challenge and submit more detailed coverage data to supplement the information provided during the initial data collection will help to ensure that only areas truly lacking unsubsidized, qualified 4G LTE coverage will receive MF-II support.

54. After the challenge window closes, the response window will open. Using the USAC portal, challenged parties will have 30 days after the opening of the response window to: (1) Access and review the data submitted by the challenger with respect to the challenged area; and (2) submit additional data/information to oppose the challenge (*i.e.*, demonstrate that the challenger's speed test data are invalid or do not accurately reflect network performance). If a respondent chooses to respond, it need only conduct speed tests of its own network (or gather its own geolocated, device-specific data from network monitoring software) in

the disputed areas, which should require less time to complete than a challenger testing multiple networks in multiple areas for data to substantiate a valid challenge. Hence, the Commission agrees with commenters that propose that the response window does not need to be open for the same amount of time as the challenge window. If a challenged party does not oppose the challenge, it does not need to submit any additional data. A challenged party will not, however, have a further opportunity to submit any additional data for the Commission's consideration after the response window closes.

55. The Commission declines to require a specific level of response from challenged parties. The Commission will accept certain technical information that is probative regarding the validity of a challenger's speed tests including speed test data and other device-specific data collected from transmitter monitoring software. If a challenged party chooses to submit its own speed test data, the data must conform to the same standards and requirements the Commission adopts in the *MF-II Challenge Process Order* for challengers, except that it will only accept data from challenged parties that were collected after the publication of the initial eligibility map and within six months of the scheduled close of the response window. Any evidence submitted by a challenged party in response to a challenge must be certified by a qualified engineer or official under penalty of perjury. Since the Commission is not requiring a specific level of response from challenged parties, the response data will not be subject to USAC's automatic system validation process.

56. Although the Commission is willing to accept certain technical data that are probative regarding the validity of a challenger's speed tests, the data must be reliable and credible to be useful during the adjudication process. Specifically, technical data other than speed tests submitted by a challenged party, including data from transmitter monitoring software, should include geolocated, device-specific throughput measurements or other device-specific information (rather than generalized key performance indicator statistics for a cell-site) in order to be useful to help refute a challenge. The Commission agrees with commenters that "on the ground" data collected using standardized parameters are a reliable form of evidence because they simulate what consumers actually experience. Thus, the Commission expects that speed test data would be particularly persuasive evidence for challenged

parties to submit to refute a challenge, especially since it will be easier for the Bureaus to compare equivalent data. While the system will not validate a challenged party's response data, to be probative in order to refute a challenge, speed tests must record a download speed of at least 5 Mbps and meet all other standard parameters.

57. The Commission directs the Bureaus to issue an order or public notice implementing any additional requirements that may be necessary or appropriate for data submitted by a challenged party in response to a challenge. Such order or notice will contain any further detailed instructions, guidance, and specifications for responding to a challenge.

G. Adjudication of Challenges

58. Consistent with the standard of review adopted in the *Connect America Fund Report & Order*, 78 FR 38227, June 26, 2013, and the *CAF II Challenge Process Order*, 78 FR 32991, June 3, 2013, the Commission adopts a preponderance of the evidence standard to evaluate the merits of any challenges. Additionally, the Commission adopts its proposal that the challenger shall bear the burden of persuasion. If, upon review of all the evidence submitted in the challenge, it appears that the challenger has not submitted sufficient evidence to demonstrate that it is more likely than not that the challenged area does not have qualified LTE coverage, the challenge will fail under this standard. Following the close of the response window, the Bureaus will adjudicate certified challenges based upon this standard and the evidence submitted by the challenger and challenged party(ies) to determine whether adjustments to the initial eligibility map are appropriate. The Bureaus will weigh the evidence submitted by challengers and challenged parties based on its reliability, giving more credence to data that were collected pursuant to the parameters established in the *MF-II Challenge Process Order* and any additional standards that the Commission or Bureaus may adopt. The Commission retains discretion to discount the weight of a challenger's evidence if a challenge appears designed to undermine the goals of MF-II. Particularly in light of the steps the Commission has taken to address questions about the reliability of Form 477 data in response to the comments, the Commission concludes that it is appropriate that the burden rest on the challenger. The Commission finds that placing the burden of proof on the

challenger both incentivizes challengers to present a full evidentiary record as well as discourages frivolous filings, thus supporting its goal of administrative efficiency and allowing for disbursement of support to unserved areas without unreasonable delay.

59. With respect to the evidentiary standard, comments submitted in the record support a preponderance of the evidence standard, and no commenters supported the higher standard of clear and convincing evidence. The preponderance of the evidence standard of review is consistent with the CAF challenge processes, as well as with a wide body of Commission precedent. A more demanding standard would impose an evidentiary burden that is in tension with the Commission's overall goal of making the most accurate determinations based on the evidence of record. The Commission finds that applying a preponderance of the evidence standard strikes the appropriate balance, potentially reducing the number of disputed areas and ensuring that the Commission has the data necessary to evaluate the merits of any challenges, while not unduly burdening smaller providers.

V. Procedural Matters

A. Paperwork Reduction Act Analysis

60. The *MF-II Challenge Process Order* contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission describes impacts that might affect small businesses, which include most businesses with fewer than 25 employees, in the Final Regulatory Flexibility Analysis (FRFA) in Appendix A of the *MF-II Challenge Process Order*.

B. Congressional Review Act

61. The Commission will send a copy of the *MF-II Challenge Process Order* to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

C. Final Regulatory Flexibility Analysis

62. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice section of the *Mobility Fund II FNPRM* adopted in February 2017. The Commission sought written public comment on the proposals in the *Mobility Fund II FNPRM* including comment on the IRFA. The Commission received three comments in response to the IRFA. The Commission also included a Final Regulatory Flexibility Analysis (FRFA) in the Report and Order section of the February 2017 *Mobility Fund II Report and Order*. Seven petitions for reconsideration, one comment in support of a petition for reconsideration, two oppositions to the petitions, and six replies to the oppositions were received by the Commission in response to the *Mobility Fund II Report and Order*. This FRFA addresses the comments on the IRFA and analyzes the modifications adopted in response to the petitions, comments, and responsive filings to the *Mobility Fund II Report and Order*. This FRFA conforms to the RFA.

1. Need for, and Objectives of, This Order on Reconsideration and Second Report and Order

63. Rural and high-cost areas of the United States trail significantly behind urban areas in the growth of 4G LTE service. The Mobility Fund Phase II (MF-II) will use a market-based, multi-round reverse auction and allow the Commission to redirect its limited resources to those areas of the country lacking unsubsidized, qualified 4G LTE service.

64. In the *MF-II Challenge Process Order*, the Commission adopts procedures for a challenge process to supplement its coverage maps by providing an opportunity for interested parties to provide up-to-date LTE coverage data to determine a map of areas presumptively eligible for MF-II support. Interested parties will have the ability to contest this initial determination that an area is ineligible for MF-II support because an unsubsidized service provider submitted data that demonstrates it is providing qualified 4G LTE service there. The challenge process adopted in the *MF-II Challenge Process Order* enables the Commission to resolve eligible-area disputes in an administratively efficient and fiscally responsible manner.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

65. The Commission received one comment, one reply comment, and one written *ex parte* submission bearing on the IRFA. CCA and RWA believe that a challenge process without a required data collection would better fulfill the directive of the RFA. NTCA similarly expressed concern that requiring all providers, including small entities, to file new Form 477 data to determine eligibility for MF-II support by area would be unnecessary and contrary to the directive of the RFA.

66. The Commission is sensitive to the burden on small entities and other providers associated with the new data collection. However, the benefits of standardized, reliable data on which to base eligibility determinations outweigh the costs associated with their collection. Moreover, the use of newly collected data enables the Commission to adopt a streamlined challenge process that will reduce the burden on challengers and providers that respond to challenges. Fewer small providers will be forced to bring a challenge, and challenges will be more directed, more accurate, and less onerous because the Commission will have the best-available starting point of standardized data. The Commission also eases the burden of the new data collection on small entities by limiting the one-time data collection to providers who have previously reported 4G LTE coverage in Form 477 and have qualified 4G LTE coverage. The limited scope of the collection addresses the concerns of some of the smaller providers who objected to the potential burden of a universal new filing. The Commission has eased the burden of the collection by only requiring a filing from those who have easy access to the necessary data. Additional steps taken to minimize the burden of the challenge process on small entities are discussed below.

3. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

67. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule(s) and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments.

68. The Chief Counsel did not file any comments in response to the proposed procedures in this proceeding.

4. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

69. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A “small-business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

70. *Small Entities, Small Organizations, Small Governmental Jurisdictions.* The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry-specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States which translates to 28.8 million businesses. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of 2007, there were approximately 1,621,215 small organizations. Finally, the term “small governmental jurisdiction” is defined generally as “governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data for 2012 indicate that there were 89,476 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88,715 entities may qualify as “small governmental jurisdictions.” Thus, the Commission estimates that most governmental jurisdictions are small.

71. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide

communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

72. The Commission’s own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by its actions. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, the Commission estimates that the majority of wireless firms can be considered small.

73. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as “establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.” The SBA has developed a small business size standard for Wired

Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

5. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

74. In the *MF-II Challenge Process Order*, the Commission adopts parameters both for establishing an eligible area baseline prior to the MF-II challenge process and for a streamlined challenge process. The process will efficiently resolve disputes about areas shown as eligible for MF-II support on the initial eligibility map that will be generated based on the new collection of 4G LTE coverage data. The Commission summarizes the reporting and other obligations of the MF-II challenge process in the accompanying *MF-II Challenge Process Order*. Additional information on these requirements can be found in the *MF-II Challenge Process Order* at paragraphs 27–63.

75. To establish the map of areas presumptively eligible for MF-II support, all current Form 477 filers that have previously reported qualified 4G LTE coverage and have qualified 4G LTE coverage based on the data specification set forth in the *MF-II Challenge Process Order* will be required to submit to the Commission a one-time new data filing detailing 4G LTE coverage. Providers will be required to file propagation maps and model details indicating current 4G LTE coverage, as defined by download speeds of 5 Mbps at the cell edge with 80 percent probability and a 30 percent cell loading factor. Filers should report an outdoor level of coverage. The coverage boundaries shall have a resolution of 100 meters (approximately three arc-seconds) or better and shall likewise use an appropriate clutter factor and terrain model with a resolution of 100 meters or better. Providers shall report the signal strength (RSRP) and clutter factor categories used to generate their coverage maps. If the signal strength in the coverage maps varies regionally, then such variations must be reported. The providers must report the loss value associated with each clutter factor category used in their coverage maps. In addition, filers should use the optimized RF propagation models and parameters that they have used in their normal course of business, subject to further

requirements set forth in subsequent public notices. Carriers will be required to submit data for the one-time collection at least 90 days after the release of the filing instructions public notice.

76. In conjunction with submitting propagation maps, model details, and signal strength of 4G LTE coverage, providers will submit a list of at least three readily-available handset models appropriate for challengers wishing to conduct a speed test of the providers' coverage in a particular area, and a certification, under penalty of perjury, by a qualified engineer or government official that the propagation map and model details reflect the filer's coverage as of the generation date of the map in accordance with all other parameters. For challengers that are governmental entities and do not have a qualified engineer available to certify, the Commission will allow certification by a government official authorized to act on behalf of the organization and with actual knowledge of the accuracy of the underlying data.

77. To initiate a challenge, a challenger must, within the 150-day challenge window: (1) Access confidential, provider-specific information for areas it wishes to challenge; (2) identify the areas(s) it wishes to challenge; (3) submit evidence supporting the challenge; and (4) certify its challenge for the specified area(s). Only service providers required to file Form 477 data and government entities (state, local, and Tribal) have standing to initiate a challenge. Challengers other than government entities and service providers required to file Form 477 data with the Commission, who are not already represented by another interested party, may file a waiver request with the Commission to participate in the MF-II challenge process for good cause shown. Only challenges for areas that the Bureaus identify as presumptively ineligible for MF-II support will be permitted.

78. Challengers must submit their challenges to areas identified as ineligible for support via an online challenge portal to be operated by the Universal Service Administrative Company (USAC). A challenger will be required to identify the area(s) that it wishes to challenge for each state. The Commission will require that any challenge be of a minimum size of at least one square kilometer.

79. Challengers will also be required to submit actual outdoor speed test data that satisfy the parameters outlined below and any others the Commission or Bureaus may implement. Speed test data must be collected using provider-

specified handsets, and substantiated by the certification of a qualified engineer or, in the case of a government entity, a government official under penalty of perjury.

80. A challenger must provide detailed proof of lack of unsubsidized, qualified 4G LTE coverage in support of its challenge with speed test data for each of the providers claiming qualified 4G LTE coverage in the challenged area. The Commission will allow challengers to submit speed data from hardware or software-based drive tests or application-based tests that spatially cover the challenged area. All speed tests must be conducted between the hours of 06:00 a.m. and 12:00 a.m. local time, when consumers are likely to use mobile broadband data. A challenger must take speed measurements that are no more than a fixed distance apart from one another within the challenged area, and which substantially cover the entire challenged area. This fixed distance parameter will be a value no greater than one mile, and will be set by the Bureaus in a subsequent public notice. The Commission will only accept data that were collected after the publication of the initial eligibility map and within six months of the scheduled close of the challenge window.

81. Challengers electing to use application-based tests must use the applicable handsets specified by each service provider servicing any portion of the challenged area. The challenger must purchase a service plan from each unsubsidized service provider in the challenged area. If there are multiple unsubsidized service providers in the challenge area, the challenger must purchase service plans that are comparable (*i.e.*, similar with respect to cost and services provided).

82. Once a challenger has submitted its evidence in the USAC MF-II portal, the system will automatically conduct a validation to determine whether the evidence is sufficient to justify proceeding with the challenge. The USAC system will superimpose each challenger's identified challenged area on the initial eligibility map and will remove any portions that overlap eligible areas. A challenged ineligible area must meet the *de minimis* area threshold to move forward in the challenge process. If the challenged area does not meet the threshold, the system will flag the failure and will not accept the challenge for submission unless and until the challenger submits during the challenge window new data that meet the threshold. Then, the USAC system will analyze the geographic coordinates of the points at which the challenger conducted the speed tests to validate

whether the speed test data show measurements of download speed less than 5 Mbps (counted speed tests) and meet all other standard parameters. In order to implement the requirements that each point is no more than a fixed distance apart and that the measurements substantially cover the entire challenged area, the system will create a buffer around each counted speed test point and calculate the area of these buffered points (speed test buffer area). The system will apply a buffer with a radius equal to half of the maximum distance parameter and will trim any portions of the buffers that are outside the challenged area. Where a challenged area overlaps the submitted coverage map of more than one incumbent provider, the system will require counted speed tests for each provider in order to calculate the speed test buffer area. If the speed test buffer area within each challenged area covers at least 75 percent of the challenged area, the challenge will pass validation, and once certified, the challenged area(s) will be presented to the incumbent provider(s) for a response. If the speed test buffer area does not cover at least 75 percent of the challenged area, the challenge for that area will fail validation unless the challenger submits new evidence or modifies its challenge during the challenge window such that the challenge for that area meets the 75 percent threshold. Each challenged area that meets the *de minimis* threshold will be considered individually. The USAC system will determine which portions of a challenged area overlap which 4G LTE providers, and respondents will see only those challenged areas and speed test buffer areas that overlap their 4G LTE coverage.

83. Once the challenge window closes, challenged parties will have a limited opportunity to submit additional data in response to a challenge. Using the USAC portal, a challenged party will have 30 days after the opening of the response window to: (1) Access and review the data submitted by the challenger with respect to the challenged area; and (2) submit additional data/information to oppose the challenge. The Commission will accept certain technical information that is probative to the validity of a challenger's speed tests, including, but not limited to speed test data and device-specific data collected from transmitter monitoring software. If a respondent chooses to respond, it need only conduct speed tests of its own network (or gather its own geolocated, device-specific data from network monitoring software) in the disputed

areas. If a challenged party chooses to submit its own speed test data, the data must conform to the same standards and requirements the Commission adopts for challengers. Any evidence submitted by a challenged party in response to a challenge must be certified under penalty of perjury. Response data will not be subject to the USAC's automatic system validation process. A challenged party may choose not to oppose the challenge in which case no additional information will be required. A challenger bears the burden of persuasion and the merits of any challenge will be evaluated under a preponderance of the evidence standard.

6. Steps Taken To Minimize Significant Economic Impact on Small Entities, Significant Alternatives Considered

84. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives, among others: "(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities."

85. The Commission has considered the economic impact on small entities in reaching its final conclusions and taking action through this proceeding. In the *Mobility Fund II FNPRM*, the Commission sought comment on the parameters for the challenge process for MF-II. The Commission acknowledged that any challenge process would necessarily involve tradeoffs between the burden on interested parties and the Commission and the timeliness and accuracy of final determinations. The Commission sought specific comment on the ways it could reduce the burden on smaller providers.

86. In the *MF-II Challenge Process Order*, the Commission amends its decision to use a parties' most recent Form 477 data and will instead supplement its coverage maps by providing an opportunity for interested parties to provide up-to-date LTE coverage data to determine an initial map of potentially eligible areas for MF-II support. This amended data baseline, in response to concerns regarding the lack of standardization and reliability of Form 477 data for the purpose of determining coverage meeting the MF-

II eligibility benchmark, is intended to provide the Commission and interested parties with the best available starting point of standardized coverage data. In building on this baseline, the procedures the Commission adopts in the *MF-II Challenge Process Order* will provide greater certainty and transparency for entities participating in the MF-II challenge process, including small entities. In the *Mobility Fund II FNPRM*, the Commission sought comment on two options, "Option A" and "Option B" for the challenge process, and invited alternative options for the challenge process.

87. "Option A" allowed a challenge to be made on a good-faith belief, based on actual knowledge or past data collection, that 4G LTE coverage was not available in an area as depicted by Form 477 filings. Carriers and state and local governments would be eligible to participate. The Commission sought comment on what evidence, if any, should be required in support of a challenge, whether or not it should require a challenged area to reach a minimum size threshold, whether challenges should be allowed for areas marked as eligible, and how and when challenged providers could respond and with what evidence of coverage.

88. "Option B" gave challenging parties 60 days following the Commission's release of a list of eligible areas to submit evidence, which would include speed test data and shapefile maps and be filed in the public record, contesting the eligibility status of an area. Service providers and governmental entities located in or near the relevant areas would be eligible to participate. Challenged providers would then have 30 days to respond with their own speed tests and shapefile maps. The Commission sought comment on what requirements should be imposed for speed tests and on the burden of requiring such a level of response from challenged providers.

89. The Commission explained that it intended to assemble a "best in class structure" from the proposed options and made it clear the Commission did not intend to adopt either option wholesale. The Commission believes the challenge process procedures adopted today are the "best in class" and will both promote fairness and minimize burdens on small entities and other interested parties.

90. Given the concerns voiced in the comments regarding the lack of standardization and the reliability of using Form 477 data for MF-II purposes, a collection of new data will ultimately lead to a less onerous and more efficient challenge process for

small entities and other MF-II participants. The challenge process will be streamlined using universal, standardized coverage data. These data are already in the possession of current providers who are therefore in the best position to provide data to the Bureaus. Current providers of unsubsidized, qualified 4G LTE coverage, including small businesses, will benefit by filing their coverage data under the standardized parameters adopted in the *MF-II Challenge Process Order* because they can establish their coverage areas as initially ineligible to competitors seeking subsidies in the MF-II auction.

91. Use of newly collected data enables the Commission to adopt a streamlined challenge process that will ease the burden of submission and resolution of challenges to the map of presumptively eligible areas. Because the map of presumptively eligible areas will be established using current, standardized data, challengers will be able to target fewer areas to challenge and reduce the need for more in-depth testing in certain areas. This in turn should reduce the burden on challengers and providers that respond to challenges. The Commission also limited the new, one-time data collection to providers who have previously reported 4G LTE coverage in Form 477 and have qualified 4G LTE coverage. The limited scope for the collection eases the burden by only requiring a filing from those who have easy access to the necessary data.

92. The Commission has taken a number of steps to reduce the burden on small entities and other parties participating in the challenge process while also collecting the information required to target areas without qualified 4G LTE coverage. For example, the Commission limits the types of challenges and will only accept challenges for areas identified by the Bureaus as ineligible for MF-II support. Because the data for the map of presumptively eligible areas are supplied by service providers, the Commission believes a challenge to an eligible area would likely be a correction by the service provider who supplied the initial data. The Commission will not require challengers to match up their challenged areas to census blocks or census block groups as proposed in the *Mobility Fund II FNPRM*. The Commission will allow challenges from government entities (state, local, and Tribal) and all service providers required to file Form 477 data with the Commission, limiting the process to those parties with an adequate interest who are likely to have the knowledge and expertise to make

the requisite submission. The Commission does not include consumers as challengers in the MF-II process and believe consumers are best suited to participate in the MF-II challenge process through a state, local, or Tribal government entity. If a consumer, organization, or business believes that its interests cannot be met through its state, local, or Tribal government entity, and it wishes to participate in the process as a challenger, it is free to file a waiver with the Commission for good cause shown, either on its own or with the assistance of an organization. These limits promote an efficient challenge process and prevent unnecessary delay of the deployment of MF-II support.

93. The Commission also requires that challenges be a minimum size of at least one square kilometer. By including a minimum size requirement for challenges, the Commission believe small businesses and all interested parties will benefit from a streamlined challenge process. The Commission rejected smaller alternatives to the size of the minimum challenge area. Making the minimum zone smaller than one square kilometer would make the area so small as to be inconsequential for improving efficiency for the challenge process. Ineligible areas of less than one square kilometer can be subject to challenge insofar as they are part of a challenge where the total size of the areas being challenged exceeds the *de minimis* size requirement. The minimum size requirement for a partial area challenge will prevent challenges solely regarding minor, patchy areas often at the edge of a covered area.

94. The *MF-II Challenge Process Order* adopts specific types of data needed to support a challenge, including actual outdoor download speed test data. The *MF-II Challenge Process Order* also adopts parameters around the type and number of handsets tested, service plan types, hours during which the tests must be completed, frequency of tests, and timing of tests in relation to the submission of the challenge. Standardizing the data-collection parameters will lead to a more efficient and accurate process, deter excessive and unfounded challenges, and minimize the burden on small business challengers as well as other parties utilizing the challenge process. In requiring the submission of standardized data, the Commission

allows challengers to use drive-based or application-based tests to generate the necessary data reports. In addition, the Commission is not requiring that an independent third party conduct the speed tests. Given the parameters for speed test data, along with the required certification, the Commission believes the flexibility afforded by allowing different testing methods limits the burden on small businesses. The *MF-II Challenge Process Order* also adopts an automatic system of validation of a challenger's evidence. This automatic validation system ensures that the evidence is reliable and accurately reflects consumer experience in the challenged area, and can be analyzed quickly and efficiently. Challenged parties are also given a limited opportunity to respond to challenges. If a challenged party does not oppose the challenge, it does not need to submit any additional data. To reduce the burden on challenged parties, the Commission declines to require a specific level of response from challenged parties.

95. The Commission will send a copy of the *MF-II Challenge Process Order*, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *MF-II Challenge Process Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Ordering Clauses

96. The Commission orders the following, pursuant to the authority contained in sections 1, 2, 4(i), 5, 10, 201–206, 214, 219–220, 251, 254, 256, 303(r), 332, 403, 405, and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 160, 201–206, 214, 219–220, 251, 254, 256, 303(r), 332, 403, 405, 503, 1302, and sections 1.1 and 1.429 of the Commission's rules, 47 CFR 1.1 and 1.429:

- The Order on Reconsideration and Second Report and Order is adopted. It is the Commission's intention in adopting these procedures that if any of the procedures that the Commission retains, modifies, or adopts herein, or the application thereof to any person or circumstance, are held to be unlawful, the remaining portions of the

procedures not deemed unlawful, and the application of such procedures to other persons or circumstances, shall remain in effect to the fullest extent permitted by law.

- The parameters set forth in the Order on Reconsideration and Second Report and Order for the Mobility Fund Phase II challenge process, along with all associated requirements also set forth therein, go into effect October 10, 2017, except for the new or modified information collection requirements in the challenge process that require approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the approval of those information collection requirements and the date they will become operative.

- The Petition for Reconsideration and Comments filed by CTIA on April 26, 2017, is granted in part to the extent described herein.

- The Petition for Reconsideration and/or Clarification filed by the Rural Wireless Association, Inc. on April 12, 2017, is denied as described herein.

- The Petition for Reconsideration filed by Panhandle Telephone Cooperative, Inc. and Pine Belt Cellular, Inc. on April 27, 2017, is denied as described herein.

- The Petition for Reconsideration and Clarification filed by Rural Wireless Carriers (*i.e.*, United States Cellular Corporation, 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.) on April 27, 2017, is denied as described herein.

- The Petition for Reconsideration and/or Clarification filed by the Blooston Rural Carriers on April 27, 2017, is denied as described herein.

- The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of the Order on Reconsideration and Second Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

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