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July 6, 2015

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Washington, D.C. 20554

Ex Parte

Re: Notice of Ex Parte Presentation, WC Docket No. 10-90.

Dear Ms. Dortch:

The Utilities Telecom Council is providing the following ex parte notification and written presentation in the above-referenced proceeding in accordance with Section 1.1206 of the Commission's Rules. On July 1, 2015, the undersigned representative from the Utilities Telecom Council ("UTC") met with Carol Mattey, Alex Minard, Molly O'Connor, Heidi Lankau, Katie King, and Ryan Palmer from the FCC's Wireline Competition Bureau and with Gary Michaels, Eliot Maenner, and Audra Hale-Maddox from the FCC's Wireless Telecommunications Bureau.

The purpose of the meeting was to discuss the proposals for the competitive bidding process for Phase II of the Connect America Fund that have been submitted on the record, and to consider alternative approaches suggested by UTC.¹ After careful consideration of the proposals that have been submitted on the record, UTC believes that the Commission should adopt an auction model that would take the best parts of these proposals and combine them, as follows.

As more fully described below, the Commission should adopt an auction model that would require entities to meet minimum eligibility requirements, similar to those required for the rural broadband experiments to ensure that applicants are legally, technically and financially qualified to compete at auction and provide broadband services. In addition, there should be milestones for coverage and increases in minimum speed that winning bidders should be required to meet. The auction should be composed of two stages: 1) for projects that would propose to provide fiber-to-the-home; and 2) for projects that would propose to provide 25/3 mbps speeds. Bidding would be conducted using multiple rounds in each stage. Package bidding would be permitted, whereby an entity could bid on a group of census blocks together. The bidding would conclude and the census block or package of blocks would be awarded after there were two successive rounds of bidding in which no bid was submitted in the census block(s). Bidders could withdraw a bid or modify their own bid, if there were no competing bids in the next round. The evaluation criteria for awarding funding would be determined by the number of eligible locations that would be served by the entity and the amount of available funding that was requested in a

¹ Proposals have been submitted on the record by US Telecom, the American Cable Association ("ACA") and the Wireless Internet Service Providers Association ("WISPA"). See Letter from Robert Mayer, US Telecom Vice President, Industry and State Affairs, to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed Apr. 10, 2015)("US Telecom Proposal"); Letter from Thomas Cohen, Counsel to ACA, to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed June 1, 2015)("ACA Proposal"); and Letter from Stephen E. Coran, Counsel to WISPA, to Marlene H. Dortch, FCC Secretary, WC Docket No. 10-90 (filed June 30, 2015).

given area by the bidding entity. In stage 2, proposals would also be evaluated based on the broadband speeds that would be offered.

UTC believes that this auction model would help to ensure that consumers in truly rural unserved areas would gain access to robust, affordable and reliable broadband services. Speed, cost, and coverage are all critical factors that should be considered when awarding funding to promote broadband access. Other proposals on the record would trade-off speed for cost and/or coverage for cost -- contrary to the public interest. The Commission should set the bar high so that the auction results in the best services at the lowest cost to the most consumers in areas that are truly rural -- not just those low-cost, high-density areas at the margins of the existing service territories of the incumbent providers. The Commission is at a critical juncture, because the auction model that it adopts now may determine the future of broadband in rural America for the next ten years. Setting high goals will promote broadband networks and services that will stand the test of time and encourage both broadband adoption and access.

Utilities have responded to the Commission's invitation for expressions of interest and have filed proposals to provide rural broadband experiments to deploy Category networks that are capable of delivering 100 Mbps downstream/25 Mbps upstream, while offering at least one service plan that provides 25 Mbps downstream/5 Mbps upstream to all locations within the selected census blocks. Utilities are proving that it is economically feasible to provide this level of service in truly rural areas, where customer density can be very low. Not only are they providing coverage across these areas, but they are offering services at prices that are affordable. Take rates are high, reflecting the value of the services that are being offered. The networks are future-proofed to keep pace with increasing demand from a wider array of bandwidth intensive applications. The Commission should adopt an auction model that will promote the deployment these kinds of robust, reliable and affordable broadband networks and services.

Eligibility Requirements

UTC recommends that the Commission require entities to meet similar eligibility requirements that were adopted for purposes of the rural broadband experiments.

With regard to pre-auction qualification, UTC suggests that the Commission require that entities obtain Eligible Telecommunications Carrier ("ETC") status prior to or within a reasonable time subsequent to the time that it is provisionally selected as the winning bidder. They should also be required to certify that they would be legally, technically and financially qualified to provide broadband services that would meet the Commission's minimum requirements. Note that UTC urges the Commission to continue to find ways to streamline the ETC process in order to reduce the time and expense involved.

With regard to post-selection review, UTC suggests that the Commission require that winning bidders provide three years of audited financials, a coverage map and diagram of the proposed network that is certified by a professional engineer, and a letter of credit from a qualified bank. This post-review process will ensure that the Commission's interest is secured and that winning bidders are legally, technically and financially qualified, while at the same time affording the opportunity for a wide variety of entities -- not just entities that are already service providers -- to receive CAF support.

Stages of Competitive Bidding

UTC recommends that the Commission establish two bidding stages, as follows:

- Stage 1 – Fiber to the Home Projects
- Stage 2 – Networks Capable of Offering 25/3 Mbps

UTC's proposal would encourage the deployment of highly robust fiber-based broadband networks, while ensuring that currently unserved areas will at least receive access to minimum speeds of 25/3 mpbs. UTC also believes that this proposal is simpler and more straightforward than the proposals that have been submitted on the record thus far.

Coverage and Increased Speed Requirements

UTC recommends that the Commission require that entities offer service to 95% of the eligible locations in a given census block within the sixth year of the funding period. UTC further recommends that entities that are winning bidders in stage 2 of the auction double the minimum speeds of their service offerings to 50/6 mbps by the end of year ten of the funding period.

The coverage requirements are critical to ensuring that entities are using the funding effectively so that all or nearly all of the consumers in a census block are served, rather than just a fraction of them. UTC is concerned that providers may only provide service to a small portion of a census block, leaving consumers unserved unless the coverage requirements are set high. Note that these requirements are minimum requirements, and the Commission should consider providing incentives for bidders to propose to exceed the minimum number of eligible locations that are required to be served in a given census block.

Requiring providers to increase the minimum speeds of their broadband services is also important to ensure that the services that are offered continue to be reasonably comparable to the speeds of services that are offered in urban areas. UTC submits that requiring providers to double the minimum speeds of their service offering over the course of ten years is practical and appropriate. Such a requirement may encourage providers to migrate towards fiber networks over time.

Submission of Bids

UTC recommends that the Commission should adopt a multi-round bidding process, and that the bidding would close in a given census block when no bids are submitted in two consecutive rounds of bidding. The low bidder, based upon the evaluation criteria described below, would be designated as the provisionally selected winner in that census block. Low bidders in a given census block should have the option of withdrawing or modifying their bid, if there are no competing bids in the next round after they submitted their bid for that census block. Package bidding should be permitted to facilitate the auction process and to enable bidders to implement strategies for serving a given area. However, UTC recommends that package bidding should be limited so that only a certain number of census blocks could be combined in a single package bid. That would increase the level of competition in the auction, while balancing the need to make the auction process simple and expedient for the Commission and the entities that are bidding.

Evaluation Criteria

UTC recommends that the criteria for selecting the winning bidder should account not only for the number of customers served, but also for the cost of serving those customers and the broadband speeds that would be offered. In stage 1, the requirement that providers use fiber based networks would ensure that consumers would have access to sufficient broadband speeds, and that bidders would compete primarily on cost and number of customers served. In stage 2, where providers must provide a minimum of 25/3 mbps, the Commission should also (in addition to the cost and number of customers served) consider the extent to which a provider proposes to offer service that exceeds this minimum speed. The Commission should provide a preference for stage 2 proposals that would provide broadband service that would exceed the minimum speed.

UTC believes that this auction model would result in unserved areas being served with the highest speeds at the lowest cost to the most customers in a given census block. In addition, there are several ancillary benefits that this auction model would provide, as described below.

Right now, the Commission estimates the number of eligible locations in a given census block and then allocates a certain amount of support for that census block based on the number of eligible locations that are estimated for that census block. The Commission does not know whether the estimated number of eligible locations is accurate nor does it specify exactly which locations in the census block are eligible. So long as a provider offers service to the required minimum percentage of the estimated number of eligible locations in a given census block, the provider will have met its requirement to “serve” that census block – it doesn’t matter where those customers are actually located or whether the estimated number of locations is far less than the actual number of unserved customers in a census block. That potentially makes it relatively easy for a bidder to meet its quota, if it can simply provide service to an area within a census block where there is a high concentration of customers located -- which could leave the rest of the customers in the remainder of the census block potentially unserved indefinitely.

UTC’s proposal would reward a bidder for proposing to serve more than the number of locations that the Commission has estimated to be eligible in a given census block. That removes the uncertainty surrounding the Commission’s estimate of the eligible number of locations in a census block. Presumably the bidder will be better positioned than the Commission to know how many customers are unserved in the census block and how many that it could propose to serve with the funds that are available for that census block. Thus, the bidder – and not the Commission – can make that determination for itself and then receive credit in the form of a lower bid than if the bidder only proposed to serve the Commission’s estimated number of eligible locations in that census block. Hence, there would be an incentive to serve more customers under this auction model, compared to a model that only incents the provider to serve the minimum number of eligible locations in a given area. Moreover, this would result in more unserved customers actually being served, even in less densely populated areas in a given census block.

Leftover Census Blocks

UTC recommends that the Commission permit bids to be submitted after the end of the auction for any census blocks that remain unserved. This would promote broadband deployment by allowing winning bidders in a given area to reevaluate their deployment strategy at the conclusion of the auction and bid to provide service in census blocks that they otherwise may have decided at the beginning of the auction to pass up.

UTC believes that this proposal would serve the public interest and would not result in the delay of the auction process or the award of CAF Phase II funding. In addition to providing service to more unserved areas, it may actually conserve Commission resources in the process by providing a simple and expedient way to “fill-in” broadband service territories.

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Thank you for your help in this matter. If there are any questions concerning this matter, please let me know.

Respectfully,

A handwritten signature in cursive script that reads "Brett Kilbourne".

Brett Kilbourne

Cc: FCC Participants