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## **PROCEDURES SET FOR MOBILITY FUND PHASE II CHALLENGE PROCESS AND DATES FOR CHALLENGE WINDOW SET**

On February 27, 2018, the Rural Broadband Auctions Task Force, along with the Wireline Competition Bureau and the Wireless Telecommunications Bureau, established the procedures for the Mobile Fund Phase II challenge process and published the map of areas presumptively eligible for Mobility Fund Phase II (MF-II) support (initial eligible areas map).

The challenge process allows all mobile service providers and government entities (state, local, and Tribal), as well as other interested parties that successfully seek a waiver from the Commission, to challenge areas that are deemed presumptively ineligible for MF-II support in the initial eligible areas map, and challenged providers will then have an opportunity to respond to challenges.

### **MAP OF ELIGIBLE AREAS FOR FUNDING**

The public map of presumptively eligible areas for each state or state equivalent is now available on the FCC's website at [www.fcc.gov/mobility-fund-phase-2](http://www.fcc.gov/mobility-fund-phase-2). However, the maps of unsubsidized coverage for specific providers will only be made available to a challenger through USAC's online challenge portal after the challenger agrees to keep such maps confidential.

### **TIMEFRAME TO CHALLENGE UNSUBSIDIZED AREAS**

The challenge window for the MF-II challenge process will open on March 29, 2018. A challenger will have 150 days (the challenge window), until August 27, 2018, to access the confidential provider-specific information that is pertinent to a challenge, as well as to submit its challenge, including all supporting evidence and required certifications. A link to the Universal Service Administrative Company (USAC) challenge process portal (portal) will be posted on the FCC's website at [www.fcc.gov/mobility-fund-phase-2](http://www.fcc.gov/mobility-fund-phase-2).

Beginning on March 22, 2018, any party that submits contact information to the portal access request form (at [www.fcc.gov/MF2-Challenge-Portal/form](http://www.fcc.gov/MF2-Challenge-Portal/form)) and obtains login credentials will be able to test its credentials by logging in to the portal.

### **EVIDENTIARY REQUIREMENTS FOR CHALLENGE DATA**

A valid challenge must include evidence in the form of actual outdoor speed test data showing a lack of unsubsidized, qualified 4G LTE coverage. A challenger must submit speed data from hardware-or software-based drive tests or application-based tests that overlap the challenged area. Each speed test must be conducted between the hours of 6:00 AM and 12:00 AM (midnight) local time, and the date of the test must be after the publication of the initial eligibility map but not more than six months before the scheduled close of the challenge window. The speed test data must be certified under penalty of perjury by a qualified engineer or government official.

Challengers must use at least one of the three handsets identified by each provider whose coverage is the subject of the specific challenge when collecting speed data. A challenger must

purchase an appropriate service plan from each unsubsidized service provider in the challenged area. According to the Commission, “[a]n appropriate service plan would allow for speed tests of full network performance, e.g., an unlimited high-speed data plan.” Potential challengers should carefully review the Procedures Order to ensure compliance with the evidentiary requirements.

The system will validate that each challenge meets the Commission’s requirements for data characteristics and quantity on a grid cell by grid cell basis. Once validation processing is complete, a challenger will be able to view and certify its challenge(s), and only those challenges that are certified at the close of the challenge window will proceed.

### **RESPONDING TO A CHALLENGE**

When the USAC system finishes processing the data submitted by challengers, the Commission will provide challenged parties 30 days to review challenges and supporting data in the USAC portal prior to opening the response window. Once opened, the response window will close 30 days later. A challenged party will not have an opportunity to submit additional data for the Commission’s consideration after the response window closes.

### **EVIDENTIARY REQUIREMENTS FOR RESPONSE DATA**

If a challenged provider chooses to respond to a challenge, the Commission will accept as response data certain technical information that is probative regarding the validity of a challenger’s speed tests, including speed test data, information regarding speed reductions that affected specific challenger speed tests, and other device-specific data collected from transmitter monitoring software.

If a challenged party submits its own speed test data, the data must conform to the same standards and requirements adopted for the challengers, except for the recency of the submitted data. Parties submitting technical data other than speed tests, including data from transmitter monitoring software, are required to include “geolocated, device-specific throughput measurements and other device-specific information (rather than generalized key performance indicator statistics for a cell-site).”

Only data collected after the publication of the initial eligibility map and within six months of the scheduled close of the response window will be accepted from challenged parties. Response data must be reliable and credible to be useful during the adjudication process. Any evidence submitted by a challenged party in response to a challenge must be substantiated by the certification of a qualified engineer or official under penalty of perjury. Challenged parties should carefully review the Procedures Order to ensure compliance with the evidentiary requirements for responding data.

### **COMMISSION REVIEW OF CERTIFIED CHALLENGES**

The merits of certified challenges will be reviewed based upon a preponderance of the evidence standard of review, and the challenger will bear the burden of persuasion.

Please contact your GVNW Consultant or Steve Gatto (830.895.7226, [sgatto@gvnw.com](mailto:sgatto@gvnw.com)) with any additional questions you may have about the MF Phase II Auction.