

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

In the Matter of)
)
Connect America Fund) WC Docket No. 10-90
)

ORDER

Adopted: January 10, 2014

Released: January 10, 2014

Deadline for Acceptance of Withheld Funding: February 24, 2014

By the Chief, Wireline Competition Bureau:

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I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) addresses outstanding challenges regarding the eligibility of census blocks elected by price cap carriers for the second round of Connect America Phase I.¹ Two price cap carriers challenged the designation of census blocks shown as served on the National Broadband Map, and 82 other providers filed challenges contesting census blocks elected by one or more of the price cap carriers. Of the 82 providers that submitted challenges, we grant 64 of those challenges and reject or dismiss 13. The remaining five challenges are granted in part and denied in part. Of the approximately \$98 million in funding that was subject to challenge, approximately \$18.7 million is now authorized for disbursement to extend broadband-capable infrastructure in 22 states.

¹ The Bureau previously has issued \$288 million in funding authorizations to extend broadband in 43 states and one territory. See *Over \$32 Million of Connect America Funding Authorized to Connect Unserved Homes and Businesses in Alaska, Hawaii, and Puerto Rico*, WC Docket No. 10-90, Public Notice, 28 FCC Rcd 14896 (Wireline Comp. Bur 2013); *Over \$255 Million of Connect America Funding Authorized to Connect Unserved Homes and Businesses in 41 States*, WC Docket No. 10-90, Public Notice, DA 13-2329 (Wireline Comp. Bur. rel. Dec. 5, 2013).

2. We direct the Universal Service Administrative Company (USAC) to distribute funding as described in Appendix 1 to this Order. Those price cap carriers that conditionally accepted funding in their initial election must notify us within 45 days of the release of this Order if they wish to modify their prior elections in light of the resolution of these challenges.²

II. BACKGROUND

3. In the *Phase I Order*, the Commission directed the Bureau to conduct a challenge process in which parties could challenge the status of a census block as shown on the National Broadband Map.³ The Commission adopted the challenge process to ensure that funding is not provided in areas served by other broadband providers. The Commission set out a framework for the challenge process whereby price cap carriers would first make their initial elections, including challenging census blocks shown as served on the National Broadband Map that they contended were, in fact, unserved by broadband.⁴ The Bureau then would publish a list of the census blocks elected by the price cap carriers.⁵ Interested parties, including fixed wireless broadband and cable broadband providers, were then given an opportunity to challenge the elections made by the price cap carriers, contending that the blocks in question were, in fact, served by fixed broadband Internet access.⁶ The Commission required that all challenges, both from price cap carriers and providers, be supported by “some form of documented evidence.”⁷ Following the filing of challenges to the price cap carrier elections, carriers and other interested parties were given 30 days to respond.⁸ The Commission specified that where the Bureau finds it more likely than not that the status of a census block should be treated differently than the status shown on the National Broadband Map, the Bureau should deem that census block as served or unserved, as appropriate, for the purposes of Connect America Phase I.⁹

III. DISCUSSION

4. In this Order, the Bureau addresses all of the remaining requests for funding under the second round of Connect America Phase I. First, we dismiss certain challenges filed by one price cap carrier for lack of evidence, and grant other challenges that were unopposed. Next, we describe our general framework for resolving the challenges made by third parties where the price cap carrier responded, addressing several recurring arguments made by parties that are common to multiple challenges. We then apply that general framework to the individual challenges before us and, based on the review of the evidence for each challenge, determine in each instance whether it is more likely than

² *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7766, 7777-78, para. 31 (2013) (*Phase I Order*). AT&T, Frontier, and Windstream conditioned their acceptances based on the outcome of the challenge process. CenturyLink and FairPoint did not indicate that their elections were contingent upon the challenge process.

³ *Id.* at 7776, para. 28.

⁴ *Id.* at 7777-78, paras. 29-31. For ease of reference, we refer to these challenges as price cap carrier challenges.

⁵ *Wireline Competition Bureau Publishes Census Blocks, and Commences Challenge Process, for Second Round of Connect America Phase I*, WC Docket No. 10-90, Public Notice, 28 FCC Rcd 12781 (Wireline Comp. Bur. 2013).

⁶ *Phase I Order*, 28 FCC Rcd at 7778, para. 32. For ease of reference, we refer to this group of challenges as challenges to elections made by the price cap carriers.

⁷ *Id.* at 7779, para. 33.

⁸ *Id.* at 7778, para. 32.

⁹ *Id.* at 7779, para. 33.

not that a block is served and therefore ineligible for Phase I funding.¹⁰ A list of the decisions on provider challenges is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-325068A2.xlsx. A list of all authorized census blocks, including those authorized in previous orders, is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-325068A1.xlsx.¹¹

A. PRICE CAP CARRIER CHALLENGES

5. Frontier challenges the designation of 1,195 census blocks based on various evidence, including provider advertising materials, site surveys, and statements of potential customers.¹² However, Frontier did not supply any evidence for 376 of the challenged census blocks. As the Commission required that all challenges be supported by documented evidence, we summarily deny the challenges for these 376 census blocks.¹³

6. For 673 of the remaining 819 census blocks, no provider responded to Frontier's challenge. The Bureau grants Frontier's challenge in each census block where the challenge is not opposed by a provider. Those unopposed census blocks will be treated as unserved for purposes of the second round of Phase I.

7. Windstream files challenges to 9,887 census blocks based on evidence of a lack of porting activity. In particular, Windstream challenges census blocks for which no local telephone number was ported from Windstream to another carrier for the 18-month period of December 1, 2011 through May 31, 2013.¹⁴ Windstream contends that the lack of number porting indicates that no other provider is serving that census block.

¹⁰ We note at the outset that the decisions we make in the context of the Phase I challenge process do not bind the Commission or the Bureau in any other proceeding that may involve a challenge process, including Connect America Phase II, the Mobility Fund, the Tribal Mobility Fund, or determining overlap with rate-of-return carriers. We note particularly that the Bureau has already established different procedures for the Phase II challenge process. *Connect America Fund*, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 7211, 7212-20, paras. 4-22 (Wireline Comp. Bur. 2013) (*Phase II Challenge Process Order*). A decision in the Phase I challenge process that a block is unserved does not necessarily mean that same block will be treated as unserved for purposes of Phase II. The converse is also true: a decision in the Phase I challenge process that a block is served does not necessarily mean that the same block will be treated as served for purposes of Phase II. At the same time, we may consider our determinations in the Phase I challenge process when deciding what areas are eligible for Phase II support. For example, to the extent we evaluate the evidence presented regarding a particular census block, and reach a determination in this Order that it should be deemed served or unserved, that decision has some precedential value in evaluating a challenge to that same block in Phase II. A party may have to introduce new evidence to overcome a decision made in this Order.

¹¹ Hawaiian Telecom and Puerto Rico Telephone Company did not report location counts for each census block. Rather, these carriers determined the number of planned deployment locations at the county or municipio level and then distributed those locations proportionally among the census blocks in that county or municipio. For administrative simplicity, Bureau staff has rounded the census level figures to whole numbers while ensuring that, for each carrier, the locations for all census blocks still sum to the total required number of locations.

¹² Letter from Michael Golob, Senior Vice President, Engineering and Technology, Frontier Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Aug. 20, 2013).

¹³ *Phase I Order*, 28 FCC Rcd at 7779, para. 33 ("All filings in the challenge process, whether from a price cap carrier or another provider, must be supported by some form of documented evidence").

¹⁴ Windstream Election of 2013 Connect America Fund Phase I Incremental Support, WC Docket No. 10-90, Attach. 3 (Aug. 20, 2013).

8. Multiple parties assail the validity of porting evidence as a means of determining whether a census block is served. Some parties note that customers in a census block may receive broadband from another provider, but not port their telephone numbers away from the incumbent.¹⁵ We acknowledge that possibility, but also note that the Commission specifically stated that lack of porting activity could be relevant in adjudicating challenges. We conclude that evidence showing a lack of porting over an 18-month period is sufficient to meet the burden of production to support a challenge, and in those instances where the challenge is not opposed, sufficient for us to conclude that it is more likely than not that an area is unserved for the purposes of the Phase I challenge process.¹⁶ Therefore, any challenge made by Windstream that was not opposed by a provider is hereby granted, and those census blocks will be treated as unserved for purposes of the second round of Phase I. Providers opposed Windstream's election to 6,666 of the census blocks that Windstream had identified as lacking porting. We address those challenges below.

B. FRAMEWORK FOR ANALYZING CHALLENGES TO PRICE CAP CARRIER ELECTIONS

9. Based on our review of the challenges and responses filed in this proceeding, we observe that parties have made similar arguments in many instances. We address those arguments generally in this section in order to provide clarity as to our general approach to adjudicating the Phase I challenges before us.¹⁷

10. *Sufficiency of Certifications.* Many providers opposing particular elections made by price cap carriers filed certifications averring that a particular census block was served. Price cap carriers offer two arguments against many of these certifications: first, that a technical deficiency with a certification necessarily renders it invalid, and second, that a certification on its own is not sufficient evidence to support a challenge. We reject both of these arguments.

11. Relying on the language contained within the *Phase I Order*, price cap carriers argue that a valid certification must contain five elements in order to be considered by the Bureau. In particular, they insist that a certification must be: (1) signed, (2) by an officer of the provider, (3) under penalty of perjury, (4) stating that the challenger offers 3 Mbps/768 kbps broadband Internet service, and (5) for each census block challenged.¹⁸ This format of certification is one of the types of evidence the Commission said would be considered in the challenge process.¹⁹ While the Commission gave this as an example of one type of persuasive evidence, it did not do so to the exclusion of all other forms of provider

¹⁵ A customer may choose to receive phone service from a mobile provider or receive a new phone number from the provider. Alternatively, the customer may choose to receive broadband from a new provider, but continue receiving voice service from the price cap carrier. *See, e.g.*, Comments of the National Cable Television Association, WC Docket No. 10-90, at 2 (filed Sept. 27, 2013).

¹⁶ While we determine that evidence of a lack of porting meets the necessary burden of production to support a challenge, as demonstrated in the challenges resolved below, we assign very little comparative weight to the porting analysis. In almost every instance, a provider that responded to Windstream's porting evidence with some evidence of its own was able to carry the burden of persuasion that we should designate a census block as served.

¹⁷ The arguments raised in this proceeding have informed our thinking regarding how to improve the Phase II challenge process. Based on our experience with the Phase I challenges, we may issue further guidance in advance of the Phase II challenge process in order to provide greater clarity to all affected parties of what is expected.

¹⁸ *See, e.g.*, CenturyLink Responses to CAF I Round 2 Challenges, WC Docket No. 10-90, at 4-5 (filed Nov. 4, 2013) (CenturyLink Reply).

¹⁹ *Phase I Order*, 28 FCC Rcd at 7779, para. 33.

statements and certifications. The Commission never stated that only a certification meeting all these elements was acceptable. A certification lacking one or more of these elements can still be valid persuasive evidence.

12. We also conclude that a certification alone is sufficient to meet the prima facie requirement that a challenge be supported by some evidence. A certification is not a mere conclusory assertion. A certification involves an individual making a representation to the Commission that a statement is true, correct, and genuine to the best of his or her knowledge. Parties face criminal penalties for knowingly and willfully making materially false, fictitious, or fraudulent statements or representations in official matters before the Commission.²⁰ When such a statement comes from a person who is in a position to be familiar with the pertinent subject matter, such a certification carries evidentiary weight. The certifications provided by the challengers are frequently from persons who are familiar with the challenger's network or are otherwise in a position to comment authoritatively on whether the challenger serves a particular census block, whether through direct knowledge or based on representations of other individuals within the company. Furthermore, as the term is used in this Order, a certification is generally a statement made by a person in an official proceeding speaking to the truth of some asserted matter. The fact that an individual makes the statement in a proceeding where false statements are subject to criminal penalties reduces the likelihood that the statement is made falsely or frivolously.²¹ While a certification accompanied by additional evidence may be more persuasive than just a certification, the Commission did not require any specific form of evidence for the Phase I challenge process, and a certification alone is enough to support a determination that it is more likely than not that a census block is served. If a price cap carrier has some reason to believe that a certification is factually inaccurate, it should have submitted such arguments in its response.

13. *Confidentiality of Information.* Price cap carriers note that several providers filed information confidentially, referenced other confidential information (such as Form 477 data), or redacted information from their challenges.²² They argue that providers should not be allowed to base arguments on confidential information, as doing so deprives price cap carriers an opportunity to respond effectively. The price cap carriers suggest that the Bureau should disregard the redacted information and/or reject the challenges outright.²³

14. Transparency is important to Commission processes, but such concerns must be balanced against the need to protect customer privacy as well as sensitive commercial information. The use of confidential information is not fatal to a challenge. Often the actual substance of the confidential information is not critical to our ability to evaluate the arguments and reach a determination. For example, some providers noted in their challenges that they served a certain number of locations in a census block, but redacted the actual number of locations. Whether the number of locations is one, ten, or twenty is of no consequence – when the provider argues there is some number of locations that it serves in the census block, that is evidence potentially rendering the block ineligible for Phase I support. In making our determinations, the Bureau has relied upon the public information that was available to price cap carriers. Because of this, we conclude that price cap carriers were not unduly burdened by the filing of confidential or redacted information by providers, and we refuse to invalidate any challenge on the ground that it contained confidential information.

²⁰ 18 U.S.C. § 1001.

²¹ *Id.*

²² *See, e.g.*, Reply of Windstream Corporation, WC Docket No. 10-90, at 21-22 (filed Nov. 4, 2013) (Windstream Reply).

²³ *See* Response of AT&T to Incremental Support Round 2 Challenges, WC Docket No. 10-90, at 5 (filed Nov. 4, 2013) (AT&T Reply).

15. Some parties have called for the issuance of a protective order to allow review of the redacted information.²⁴ We decline to issue a protective order in this matter. Issuing a protective order and providing for yet another round of replies would introduce unnecessary delay.²⁵ As noted above, in many circumstances the underlying redacted information does not further inform a decision, and we conclude that little benefit would be gained from allowing review of this information.

16. *Unserved by Broadband.* In adopting the revised rules for the second round of Phase I, the Commission concluded that “[t]o meet its Phase I service obligations, a carrier must deploy to locations unserved by broadband.”²⁶ In order to implement this requirement, the Bureau therefore must determine what it means for a census block to be “unserved.”

17. Some parties argue that providers should be required to show they have at least one customer in the census block in question.²⁷ The Commission did not specifically require, however, that a provider actually have customers in a particular census block in order to preclude eligibility for funding. Rather, the Commission spoke in terms of whether an area “lacks Internet access” of a particular speed.²⁸ A provider could offer broadband access to consumers in a census block, but none of those consumers choose to subscribe to the broadband service. Such a census block would still qualify as having access to broadband even though the block contains no broadband customers. We therefore decline to require evidence that the provider is currently serving customers in a particular census block, so long as there is some indication that it offers service in the area and is able to provide service within a commercially reasonable time frame. This is the general approach required for submitting data for the National Broadband Map,²⁹ and we follow that approach for the Phase I challenge process for administrative simplicity. This approach ensures that Phase I funding is not provided to overbuild existing broadband providers. It does not make sense to provide Phase I funding to extend broadband to locations that another provider can serve in some reasonable period of time – minutes if all equipment is already in place, or hours or days if customer premises equipment must be delivered and installed or a line must be extended. By contrast, the mere plan to deploy to a census block at some point in the future is not sufficient to deem the census block as served for purposes of Phase I.

18. Windstream opposes certain challenges in which the challenger states in its certification that it “provides” or “can provide” service at the requisite speed within a specified time period, such as seven to ten days.³⁰ In the absence of any prior guidance from the Commission that a challenge must expressly state that it “offers” service, we are disinclined to read such certifications as evincing only the technical capability to extend service to a particular location. Rather, a more natural reading is that the party making the certification is indicating that the company currently provides service

²⁴ See, e.g., Windstream Reply at 21-22.

²⁵ See Letter from Stephen E. Coran, Counsel for the Wireless Internet Service Providers Association, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90, at 2 (filed Nov. 15, 2013).

²⁶ *Phase I Order*, 28 FCC Rcd at 7771, para. 14.

²⁷ See CenturyLink Reply at 7-8.

²⁸ See *Phase I Order*, 28 FCC Rcd at 7771-72, para. 15 (“In addition to areas lacking 768 kbps/200 kbps Internet access, we now expand eligibility for Phase I support to any location that lacks 3 Mbps/768 kbps Internet access”).

²⁹ State Broadband Data and Development Grant Program, 74 Fed. Reg. 32545, 32548 (July 8, 2009) (“Broadband service is ‘available’ to an end user at an address if a broadband service provider does, or could, within a typical service interval (7 to 10 business days) without an extraordinary commitment of resources, provision two-way data transmission to and from the Internet with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to the end user at the address”).

³⁰ See Windstream Reply at 18-19 n.41.

to customers in nearby areas and is willing to provide service to the customers in the disputed block within a reasonable time period upon request. Given that the Commission did not specify precise language that challengers had to use regarding service availability, we decline to deny Phase I challenges merely because the challenger failed to specifically say that it “offers” service in the area. Accordingly, we view such certifications as sufficient evidence to support a conclusion that the area is served for purposes of Phase I. For purposes of Phase II, however, we caution potential challengers that they must clearly state that they *offer* service to locations within the census block that is subject to challenge. A statement that they “can provide” service will not be sufficient to establish a block is served in Phase II.

19. *Customer Location-Specific Information.* We are not persuaded by the argument that the Bureau should not consider any challenge that does not include customer location-specific information, such as actual customer addresses or bills from customers.³¹ While such a submission would provide additional evidence supporting a provider’s challenge, the Commission did not require providers to file customer location-specific information. A provider is not required to have current customers in a census block in order for that census block to be deemed served. It may be the case that a provider offers service, but no residents in the census block have chosen to subscribe. It would be a waste of limited Connect America Phase I funds to overbuild the provider’s existing network.

20. *Other Arguments.* CenturyLink notes that some challengers did not identify the price cap carrier they were challenging.³² CenturyLink requests that future challenge processes require the challenger to identify the challenged party and note which census blocks correspond to which carrier.³³ We note that these requirements are already built into the Phase II challenge process, including a requirement to provide notice to interested parties.³⁴

21. Some carriers argue that we should disregard challenges based on reference to more recent versions of the National Broadband Map.³⁵ However, the Commission specifically stated “the Bureau should consider any updates shown on a more recent version of the National Broadband Map when adjudicating challenges.”³⁶ Furthermore, as the National Broadband Map is a publicly available resource, we do not consider consulting it to be so burdensome as to refuse to consider any reference to it.

C. RESOLUTION OF CHALLENGES

22. We will now address individual challenges filed by a provider contesting that the census blocks in a price cap carrier’s elections are already served. For simplicity, we discuss the challenges to elections by provider, even though that may involve challenges to elections made by more than one price cap carrier.

23. *Access Cable Television.* Access Cable Television files a challenge in response to eight census blocks elected by Windstream.³⁷ These blocks had been initially are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a

³¹ See, e.g., AT&T Reply at 4.

³² CenturyLink Reply at 3-4.

³³ *Id.* at 4.

³⁴ *Phase II Challenge Process Order*, 28 FCC Rcd at 7212-20, paras. 4-22; see also FCC Form 505.

³⁵ See, e.g., CenturyLink Reply at 4-5.

³⁶ *Phase I Order*, 28 FCC Rcd at 7779, para. 32 n.67.

³⁷ Letter from K.C. Halm, Counsel for Access Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

lack of porting. In support of its challenge, Access Cable Television provides a certification from the company president noting that the company offers fixed broadband Internet access service of at least 3 Mbps/768 kbps to current and prospective customers in the listed census blocks.³⁸ Additionally, Access Cable Television provides redacted addresses and geocoded coordinates of subscribers in the blocks in question.³⁹

24. In reply, Windstream argues the redacted information hindered Windstream's independent verification of the data in question.⁴⁰

25. Consistent with the framework discussed above, we grant Access Cable Television's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for purposes of the second round of Connect America Phase I and therefore ineligible for funding.

26. *Alenco Communications.* Alenco Communication files a challenge in response to 21 census blocks elected by Windstream.⁴¹ Twelve of these blocks are shown as served on the National Broadband Map, but that designation had been challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Alenco Communications submits a certification from the company's general manager that Alenco Communications "offers 3 Mbps/768 kbps or greater Internet service to customers in the census blocks."⁴²

27. In reply, Windstream argues that the certification is insufficient evidence to support the challenge.⁴³

28. Consistent with the framework discussed above, we grant Alenco Communication's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for purposes of the second round of Connect America Phase I and therefore ineligible for funding.

29. *Armstrong Utilities.* Armstrong Utilities files a challenge in response to 352 census blocks elected by Windstream (220 blocks), CenturyLink (6 blocks), and Frontier (126 blocks).⁴⁴ One hundred thirty of these blocks are shown as served on the National Broadband Map, but that designation had been challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Armstrong Utilities submits a certification from the vice president of the company stating that the company "offers fixed broadband Internet access service of at least 3 Mbps downstream/768 kbps

³⁸ *Id.*

³⁹ *Id.* at Exh. 1.

⁴⁰ Windstream Reply at 24-25.

⁴¹ Letter from Gail O'Dell, Authorized Representative of Alenco Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

⁴² *Id.* at 2.

⁴³ Windstream Reply at 25.

⁴⁴ Letter from K.C. Halm, Counsel for Armstrong Utilities, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013).

upstream” in the census blocks at issue.⁴⁵ Armstrong Utilities also submits redacted lists of homes passed, subscriber counts, and plant count in each census block.⁴⁶

30. In reply, Windstream questions the validity of the certification and notes that the redacted information hindered Windstream’s independent verification of the data.⁴⁷ CenturyLink and Frontier also raised issues regarding the use of confidential information.⁴⁸

31. CenturyLink also notes that the National Broadband Map does not reflect Armstrong Utilities as providing broadband in the blocks in question.⁴⁹ The fact that Armstrong Utilities is not shown on the National Broadband Map is not determinative, however; part of the purpose of the challenge process is to allow providers to report service where it is not accurately reflected on the map.

32. Consistent with the framework discussed above, we grant Armstrong Utilities’ challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore will be ineligible for funding.⁵⁰

33. *Atlantic Broadband.* Atlantic Broadband files a challenge in response to 115 blocks elected by Windstream (51 blocks), CenturyLink (one block), Frontier (59 blocks), FairPoint (one block), and AT&T (one block).⁵¹ Twenty-eight of these blocks are shown as served on the National Broadband Map, but that designation had been initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Atlantic Broadband provided two declarations regarding the availability of 3 Mbps/768 kbps broadband at the census blocks in question. Atlantic Broadband also provides the redacted number of locations to which it provides service in each census block.

34. In reply, Windstream argues the redaction of information and hindered its ability to respond.⁵²

35. AT&T, CenturyLink, FairPoint, and Frontier did not respond to Atlantic Broadband’s challenge.

36. Consistent with the framework discussed above, we grant Atlantic Broadband’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore will be ineligible for funding.

⁴⁵ *Id.* at 1.

⁴⁶ *Id.* at Apps. A, B, and C. It appears Armstrong Utilities also intended to submit a map of network and plant locations as Appendix D, but Bureau staff could not locate that portion of the document.

⁴⁷ Windstream Reply at 25-26.

⁴⁸ CenturyLink Reply at 25; Reply of Frontier, WC Docket No. 10-90, at 4 (filed Nov. 4, 2013) (Frontier Reply).

⁴⁹ CenturyLink Reply at 25.

⁵⁰ We note that Armstrong Utilities also filed a rebuttal to the replies of CenturyLink, Frontier, and Windstream, Letter from K.C. Halm, Counsel for Armstrong Utilities, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 21, 2013), which was not considered in light of our determination above.

⁵¹ Letter from John T. Nakahata, Counsel to Atlantic Broadband Finance, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013). Atlantic also lists two FIPS codes that were not valid census blocks as they were not 15 digits (40019450012130 listed twice).

⁵² Windstream Reply at 26-27.

37. *Atlantic Telecom Multimedia Consolidated.* Atlantic Telecom Multimedia Consolidated (ATMC) challenges three census blocks elected by CenturyLink.⁵³ In support of that challenge, ATMC provides a certification by its CEO and general manager that “the three census blocks . . . are served by Atlantic Telecom Multimedia Consolidated, LLC with broadband Internet service having download speeds of at least 3 Mbps and upload speeds of at least 768 kbps. In addition, ATMC currently provides broadband Internet service to subscribers in each of these census blocks at speeds of at least 3 Mbps/768 kbps.”⁵⁴ Furthermore, ATMC states that it has existing customers in each block.⁵⁵

38. In response, CenturyLink notes that ATMC provides only an officer certification and no other evidence establishing that ATMC provides broadband in the census blocks in question.⁵⁶

39. Consistent with the framework discussed above, we grant ATMC’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore will be ineligible for funding.

40. *B2X Online.* B2X Online challenges 30 census blocks elected by CenturyLink.⁵⁷ In support of its challenge, B2X Online submits a certification from its CEO stating that “B2X Online provides broadband service in the areas.”⁵⁸ It also provides latitude and longitude coordinates for customers in the census blocks that are served by speeds exceeding the 3 Mbps/768 kbps standard.⁵⁹

41. In response, CenturyLink notes that B2X Online does not provide any evidence beyond its certification of the speed of the service being provided to the customers in each challenged census block.⁶⁰

42. Consistent with the framework discussed above, we grant B2X Online’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore will be ineligible for funding.

43. *BEK Communications Cooperative.* BEK Communications Cooperative (BEK) challenges seven census blocks elected by CenturyLink.⁶¹ In support of this challenge, BEK submitted an affidavit from its CEO noting that it provides “speeds far greater than 4 Mbps downstream and 1 Mbps

⁵³ Letter from Laura Graff, Regulatory Manager, ATMC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013).

⁵⁴ *Id.* at 3.

⁵⁵ *Id.* at 2-3.

⁵⁶ CenturyLink Reply at 11.

⁵⁷ Letter from E. Warren Kane Jr., CEO, B2X Online, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013).

⁵⁸ *Id.* at 1.

⁵⁹ *Id.* at 2-11.

⁶⁰ CenturyLink Reply at 12.

⁶¹ Comments of BEK Communications Cooperative, WC Docket No. 10-90 (filed Sept. 25, 2013).

upstream” in the listed census blocks.⁶² BEK also provides screenshots of its website showing offering of the requisite speeds, as well as redacted customer billing statements from the census blocks at issue.⁶³

44. In response, CenturyLink contends that in five of the seven census blocks, BEK does not currently serve any customers with broadband, but instead claims that it could provide service within ten days.⁶⁴ CenturyLink argues that this showing should not be sufficient to render an area ineligible for Phase I support.

45. Consistent with the framework discussed above, we grant BEK’s challenge in its entirety. Based on the record before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore will be ineligible for funding.

46. *Bixby Telephone Company.* Bixby Telephone Company challenges two census blocks elected by Windstream. Bixby Telephone Company is a rate-of-return carrier.⁶⁵ The two census blocks in question are split between Windstream and Bixby’s study areas. As noted in a previous Public Notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier’s portion of a study area.⁶⁶ However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block.

47. Therefore, we dismiss Bixby Telephone Company’s challenge as moot. The portion of the census blocks in Windstream’s territory will be treated as unserved for purposes of the second round of Connect America Phase I and therefore those locations in Windstream’s study area are eligible for funding.

48. *Blue Devil Cable.* Blue Devil Cable challenges 27 census blocks that were elected by Frontier (five blocks) and Windstream (22 blocks).⁶⁷ All 27 of these census blocks are shown as served on the National Broadband Map, but that designation had been challenged by Frontier and Windstream. Frontier initially challenged five census blocks based on evidence that another provider, StratusWave, did not provide sufficient speeds to meet the Commission’s broadband standards. Windstream initially challenged 22 census blocks based on evidence of a lack of porting. In support of its challenge, Blue Devil Cable provides a statement that it “offers a very robust 3 meg downstream and 1 meg upstream

⁶² *Id.* at 6.

⁶³ *Id.* at 7-26.

⁶⁴ CenturyLink Reply at 31.

⁶⁵ Letter from Robert Rozell, CEO/President, Bixby Telephone Company, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 23, 2013).

⁶⁶ *Phase I Challenge Process Limited to Price Cap Areas*, WC Docket No. 10-90, Public Notice, 28 FCC Rcd 13834 (Wireline Comp. Bur. 2013) (*Split Census Block Public Notice*).

⁶⁷ Letter from Bob Loveridge, General Manager and Director of Operations, Blue Devil Cable TV, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 17, 2013) (Blue Devil Cable Windstream Challenge); Letter from Bob Loveridge, General Manager and Director of Operations, Blue Devil Cable TV, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 19, 2013) (Blue Devil Cable Frontier Challenge).

broadband service.”⁶⁸ It also submits plant maps and customer billing statements supporting these claims.⁶⁹

49. Neither Frontier nor Windstream responds to Blue Devil Cable’s challenge.

50. Consistent with the framework discussed above, we grant Blue Devil Cable’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

51. *Blue Ridge Communications.* Blue Ridge Communications challenges 24 census blocks elected by Frontier (two blocks) and Windstream (21 blocks).⁷⁰ These blocks are shown as served on the National Broadband Map, but that designation had been challenged by Frontier and Windstream. Frontier initially challenged the two census blocks relying on a physical inspection of telecommunications plant visible in the area. Windstream initially challenged the 21 blocks based on evidence of a lack of porting in the area. In support of its challenge, Blue Ridge Communications submitted a certification from its director of operations that “Blue Ridge provides broadband service in the areas.”⁷¹ Blue Ridge Communications also submits plant maps and addresses of customers served by broadband speeds up to 50 Mbps/5 Mbps.⁷²

52. Neither Frontier nor Windstream responded to Blue Ridge Communications’ challenge.

53. Consistent with the framework discussed above, we grant Blue Ridge Communications’ challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

54. *Bluegrass Cellular.* Bluegrass Cellular challenges 555 census blocks elected by AT&T (90 blocks) and Windstream (465 blocks).⁷³ Three hundred forty one of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Bluegrass Cellular submits advertising material showing sufficient fixed broadband speed offerings,⁷⁴ coverage maps,⁷⁵ a declaration of the company’s president and CEO stating that “[t]his fixed wireless service provides customers with access to an Internet broadband service in their home with speeds at, or in excess of, 3 Mbps downlink and 768 kbps uplink,” and “Bluegrass currently offers its fixed wireless Internet service in each of the census blocks identified,”⁷⁶ along with pertinent customer billing statements.⁷⁷

⁶⁸ Blue Devil Cable Windstream Challenge at 1; Blue Devil Cable Frontier Challenge at 1.

⁶⁹ See Blue Devil Cable Windstream Challenge at 4-87; Blue Devil Cable Frontier Challenge at 4-152.

⁷⁰ Letter from Jeff Crandall, Director of Operations, Blue Ridge Communications, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 25, 2013). Blue Ridge Communications also indicates that it is challenging one census block which Frontier supposedly elected (421314002001029). While reference to this block exists in Frontier’s initial challenge evidence, Frontier omitted this block in its list of elections.

⁷¹ *Id.* at 1.

⁷² See *id.*

⁷³ Comments of Bluegrass Cellular, WC Docket No. 10-90 (filed Sept. 27, 2013) (Bluegrass Cellular Challenge).

⁷⁴ *Id.* at Attach. A.

⁷⁵ *Id.* at Attach. C.

⁷⁶ *Id.* at Attach. E.

55. In reply, AT&T alleges that Bluegrass Cellular merely contends that areas are “serviceable” rather than served.⁷⁸ AT&T also claims that Bluegrass Cellular did not provide billing information for every census block contested.⁷⁹ As discussed above, there is no requirement to provide a billing statement (or even have a customer in) every challenged census block. Even if we were to disregard Blue Grass Cellular’s billing statements, there would still be ample evidence to grant its challenge. Lastly, AT&T argues that Blue Grass Cellular does not meet the speed requirements because it does not make a guarantee of the speed minimum.⁸⁰ We find the certification by Bluegrass Cellular’s president and CEO to be sufficient guarantee that the speed requirement is being met.

56. Windstream contends that Bluegrass Cellular’s reliance on centroids of census blocks is not probative in Connect America Phase I, where locations served is the pertinent measure.⁸¹ However, it is likely that a broadband service that is able to reach the centroid of a census block can also serve some or all of the locations within that census block. Windstream contests the evidentiary weight of the customer bills that Bluegrass Cellular submitted due to their redactions and the limited number of bills submitted compared to the number of census blocks challenged.⁸² As discussed above, there is no absolute requirement to have customers in a particular census block, and the billing statements provide evidence of service being offered in the area in question.

57. Lastly, Windstream and AT&T argue that Bluegrass Cellular is not an unsubsidized competitor, as it stands to receive a substantial amount of federal high-cost support in the fourth quarter of 2013.⁸³ For purposes of Phase I, however, the Commission did not state that only areas served by unsubsidized competitors would be precluded from Phase I funding. In the first round of Phase I, rather than focusing on whether the provider was an unsubsidized competitor, the Commission targeted support to areas that were unserved by *any* fixed, terrestrial provider.⁸⁴ In both the first and second rounds of Phase I, the Commission emphasized that the status of an area as shown on the National Broadband Map was the key factor, not the entity providing service.⁸⁵ Furthermore, the Commission stated in the *Phase I*

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⁷⁷ *Id.*

⁷⁸ AT&T Reply at Attach.

⁷⁹ *Id.*

⁸⁰ *Id.* at 5-6.

⁸¹ Windstream Reply at 28-29.

⁸² *Id.* at 29.

⁸³ *Id.*; AT&T Reply at Attach.

⁸⁴ See, e.g., *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 26 FCC Rcd 17663, 17717, para. 137 (2011) (*USF/ICC Transformation Order*) (“CAF I incremental support is designed to provide an immediate boost to broadband deployment in areas that are unserved by *any broadband provider*” (emphasis added)). See also *id.* at 17720, para. 146 (requiring deployment for CAF Phase I to occur in areas “unserved by fixed broadband”). “The term ‘unserved by fixed broadband’ for purposes of CAF Phase I includes areas not identified by the National Broadband Map as served by at least one of the following technologies: asymmetric xDSL, symmetric xDSL, other copper wireline; cable modem – DOCIS 3.0; cable modem – other; electric power line; terrestrial fixed wireless – unlicensed; and terrestrial fixed wireless – license[d].” *Id.* at 17720, para. 146 n.231.

⁸⁵ See *id.* at 17720, para. 146 (“support will occur in areas shown on the most current version of the National Broadband Map as unserved by fixed broadband with a minimum speed of 768 kbps downstream and 200 kbps upstream”); see also 47 C.F.R. § 54.312(c)(5)(i) (noting that locations to be served must be shown as unserved on the National Broadband Map).

Order that all rules from the first round of Phase I that were not explicitly altered remained in place.⁸⁶ The rules for the first round of Phase I did not require an existing provider to be an unsubsidized competitor in order to render an area ineligible for funding, and the Commission did not explicitly alter that stance for purposes of the second round of Phase I.⁸⁷ Therefore, we decline to impute such a requirement here and instead reject Windstream's argument.

58. Both AT&T and Windstream contend that Bluegrass Cellular is not eligible because it offers a mobile, rather than fixed, service.⁸⁸ Windstream notes that "it appears Bluegrass Cellular offers an option to set up a 'private hotspot' using a stationary modem, but not a true fixed wireless service with a fixed antenna."⁸⁹ Bluegrass Cellular's advertising materials clearly demonstrate that it is offering a fixed wireless product. There is no requirement that a fixed wireless service use a permanently affixed antenna. The *USF/ICC Transformation Order* states that terrestrial fixed broadband service is defined as "one that serves end users primarily at fixed endpoints using stationary equipment, *such as the modem that connects an end user's home router, computer, or other Internet access device to the network.*"⁹⁰ To operate, the modem in question must be connected to the power grid through a wall outlet.⁹¹ This constrains the endpoint of the service to a particular location, thereby making it a fixed service.

59. Consistent with the framework discussed above, we grant Bluegrass Cellular's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.⁹²

60. *Boycom Cablevision*. Boycom Cablevision challenges challenged 76 census blocks that were elected by Windstream.⁹³ Sixty nine of these blocks are shown as served on the National Broadband Map, but that designation had been initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Boycom Cablevision submits a certification from its chief operating officer noting that Boycom offers speeds of 6 Mbps/1 Mbps in the census blocks in question,⁹⁴ as well as plant maps⁹⁵ and customer billing records.⁹⁶

⁸⁶ *Phase I Order*, 28 FCC at 7771, para. 13 ("With the exception of the rules we explicitly change in this Order, all the rules and requirements from the first round of Phase I apply *mutatis mutandis* to the second round of Phase I").

⁸⁷ Neither the text nor rules of the *Phase I Order* effectuate a change in the Commission's prior decision to focus on whether an area was served or not. *See id.* at 7778, para. 32 n.66; *see also* 47 C.F.R. § 54.312(c). Instead, the rules for the second round of Phase I focus only on the status of an area as shown on the National Broadband Map. *See* 47 C.F.R. § 54.312(c)(2), (c)(5)(i), (c)(7), (c)(8).

⁸⁸ AT&T Reply at 5; Windstream Reply at 27-29.

⁸⁹ Windstream Reply at 28.

⁹⁰ *USF/ICC Transformation Order*, 26 FCC Rcd at 17698-99, para. 98 (emphasis added).

⁹¹ Bluegrass Cellular Challenge at Attach. A (noting that installation process is "Step one. Plug in." accompanied by a picture of an electrical outlet).

⁹² We note that Bluegrass Cellular also filed a rebuttal to the replies of AT&T and Windstream, Letter from Todd B. Lantor, Counsel for Bluegrass Cellular, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 25, 2013), which was not considered in light of our determination above.

⁹³ Letter from Jerry Whitlow, Chief Operating Officer, Boycom Cablevision, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

⁹⁴ *Id.* at 1-2.

⁹⁵ *See, e.g., id.* at 5-13.

61. In reply, Windstream argues that the certification is invalid because it is not expressly made under penalty of perjury.⁹⁷ Windstream also notes that only a subset of the billing records reflects subscription to broadband service, while most merely show subscription to video services.⁹⁸

62. Consistent with the framework discussed above, we grant Boycom Cablevision's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.⁹⁹

63. *Brandenburg Telecom.* Brandenburg Telecom challenges seven census blocks elected by Windstream. Brandenburg Telecom is a rate-of-return carrier.¹⁰⁰ The seven census blocks in question are split between Windstream and Brandenburg Telecom's study areas. As noted in a previous Public Notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier's portion of a study area.¹⁰¹ However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block.

64. Therefore, we dismiss Brandenburg Telecom's challenge as moot. The portion of the census blocks in Windstream's territory will be treated as unserved for purposes of the second round of Connect America Phase I and therefore locations in Windstream's study area are eligible for funding.

65. *Bristol Virginia Utilities Board.* The Bristol Virginia Utilities Board (BVU) challenges two census blocks that were elected by CenturyLink.¹⁰² In support of its challenge, BVU submits a certification by its executive vice president and chief financial officer noting that the census blocks in question "received funding under the Broadband Technology Opportunities Program (BTOP) and the project will eventually provide fixed Internet access with speeds of 3 Mbps/768 kbps or higher."

66. In response, CenturyLink argues that the only evidence BVU provides in support of its challenge is a certification.¹⁰³ As discussed above, a certification is sufficient evidence to support a challenge. CenturyLink also contends that BVU has not provided details of its project or what locations would be served.¹⁰⁴ We reject this argument on two grounds. First, by its challenge, BVU has informed

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⁹⁶ See, e.g., *id.* at 14-19.

⁹⁷ Windstream Reply at 30.

⁹⁸ *Id.*

⁹⁹ We note that Boycom Cablevision filed a rebuttal to the reply of Windstream. Letter from Jerry Whitlow, Chief Operating Officer, Boycom Cablevision, to the Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 11, 2013). We need not consider the rebuttal, given our review of Boycom's challenge and Windstream's response.

¹⁰⁰ Letter from Allison Willoughby, General Manager, Brandenburg Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013). Brandenburg Telecom alleges that one of the census blocks falls entirely within its territory. *Id.* at 1. We reiterate that a price cap carrier may only conduct Phase I deployments in its own study areas. If the census block is, in fact, entirely within Brandenburg Telecom's territory, Windstream cannot deploy there using Phase I funding.

¹⁰¹ *Split Census Block Public Notice*, 28 FCC Red at 13834.

¹⁰² Letter from Stacey Pomrenke, Executive Vice President and Chief Financial Officer, BVU, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹⁰³ CenturyLink Reply at 12-13.

¹⁰⁴ *Id.* at 12.

CenturyLink that it will serve locations in the census blocks in question. Second, if even a single location is served, the census blocks would be considered served for purposes of Phase I, so the exact locations are not necessary to making a determination that a census block is served.¹⁰⁵ CenturyLink also argues that it has already certified that it undertook due diligence to determine if areas were served by BTOP projects, and thus the fact that BVU now raises a BTOP issue should not have any effect.¹⁰⁶ We are not persuaded. The Commission specifically directed the Bureau to ensure that funding is not provided to census blocks containing a BTOP or BIP project, and we cannot ignore the certification provided by BVU in the challenge process.¹⁰⁷ If we were to accept CenturyLink's argument, it would eviscerate the entire challenge process.

67. Consistent with the framework discussed above, we grant BVU's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question will be served through a BTOP project. The challenged blocks will be treated as served and therefore are ineligible for funding.

68. *Cable One.* Cable One challenges 237 census blocks elected by AT&T (11 blocks), CenturyLink (50 blocks), Frontier (2 blocks), and Windstream (174 blocks).¹⁰⁸ One hundred sixty six of these blocks are shown as served on the National Broadband Map, but that designation had been initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Cable One submits a certification from the vice president of its central division, noting that "[i]n each and everyone one of these blocks, Cable One advertises, passes homes/addresses, and is capable and providing and/or ready to provide commercial Internet access service at a speed of up to 50 Mbps downstream and 2 Mbps upstream."¹⁰⁹ Connected Nation verifies that for areas in Texas, Cable One is shown in the most recent National Broadband Map submissions as offering the requisite speeds in all but one of the census blocks.¹¹⁰

69. In response, AT&T argues that the certification is not expressly from an officer of the company, and that the certification uses terms of potential service rather than expressly stating that the census blocks are served.¹¹¹ AT&T also notes that customer bills and/or addresses were not provided for each block in question.

70. CenturyLink responds to Cable One's challenge noting that Cable One only provides a certification.¹¹² CenturyLink argues that the certification alone is not sufficient evidence to support the challenge.¹¹³

¹⁰⁵ A single location renders a census block served with some exceptions, such as large census blocks where the National Broadband Map displays service by road segment. *See* National Broadband Map – Technical Overview – Assembling the Data, National Telecommunications and Information Administration, <http://www.broadbandmap.gov/about/technical-overview/assembling-the-data> (last visited Jan. 6, 2014).

¹⁰⁶ CenturyLink Reply at 13.

¹⁰⁷ *Phase I Order*, 28 FCC Rcd at 7774, para. 20.

¹⁰⁸ Comments of Cable One, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹⁰⁹ *Id.* at 3.

¹¹⁰ Reply of Connected Nation, WC Docket No. 10-90, at 5 (filed Nov. 4, 2013) (Connected Nation Reply).

¹¹¹ AT&T Reply at Attach.

¹¹² CenturyLink Reply at 32.

¹¹³ *Id.*

71. Windstream argues that because Cable One's certification is not explicitly from an officer of the company, it should be disregarded.¹¹⁴ Windstream also argues that Cable One provided no other evidence of its service.¹¹⁵

72. Frontier did not respond to Cable One's challenge.

73. Consistent with the framework discussed above, we grant Cable One's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

74. *Cablevision Systems.* Cablevision Systems challenges one census block elected by FairPoint.¹¹⁶ In support of its challenge, Cablevision Systems provides a certification from vice president of business planning and regulatory product management averring that Cablevisions Systems "offers broadband service with speeds exceeding 3 Mbps downstream and 768 kbps upstream" in the block in question.¹¹⁷ Cablevision Systems also provides a redacted list of addresses for customers it serves in the block in question,¹¹⁸ screenshots of the national and New York broadband maps,¹¹⁹ and redacted Form 477 data showing reporting for the block in question.¹²⁰

75. FairPoint does not respond to Cablevision Systems' challenge.

76. Consistent with the framework discussed above, we grant Cablevision Systems' challenge in its entirety. Based on the evidence before us, we find it more likely than not that the block in question is served by broadband. The challenged block will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

77. *Charter Communications.* Charter Communications challenges 1,497 census blocks elected by AT&T (two blocks), CenturyLink (289 blocks), Frontier (one block), and Windstream (1,205 blocks).¹²¹ One thousand one hundred fifty seven of these blocks are shown as served on the National Broadband Map, but that designation had been initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Charter Communications submits a certification from its senior vice president for network operations noting that Charter Communications "offers and provides fixed broadband Internet access service of at least 3 Mbps downstream/768 kbps upstream to multiple current and prospective customers in each census block."¹²² Charter Communications also submits a redacted list of the number of homes it serves or passes in each census block at issue.¹²³

¹¹⁴ Windstream Reply at 31.

¹¹⁵ *Id.* at 31-32.

¹¹⁶ Letter from Ernest C. Cooper, Counsel for Cablevision Systems Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹¹⁷ *Id.* at Exh. A-1.

¹¹⁸ *Id.* at Exh. A-2.

¹¹⁹ *Id.* at Exhs. B, C.

¹²⁰ *Id.* at Exh. D.

¹²¹ Letter from K.C. Halm, Counsel for Charter Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹²² *Id.* at Attach.

¹²³ *Id.* at App. B.

78. In response, AT&T argues that the certification is not explicitly from an officer of the company, that the certification uses terminology that does not expressly state that the census blocks are served rather than serviceable, and that any information regarding locations in each census block is redacted.¹²⁴

79. In response, CenturyLink argues that Charter Communication's certification should not be considered sufficient to support its challenge, noting that the only other evidence offered (the list of addresses) was submitted confidentially.¹²⁵ CenturyLink also contends that Charter Communications is not clear as to whether the locations in question are served or are merely serviceable.¹²⁶

80. Windstream argues that Charter Communication's certification is not technically valid as it was not explicitly from an officer of the company,¹²⁷ that the list of homes has been improperly redacted,¹²⁸ and that Charter Communications has no other evidence to support its challenge.¹²⁹

81. Windstream also offers two other sets of evidence. Windstream entered a list of all postal service certified addresses for certain census blocks into Charter Communications' website to request service.¹³⁰ This analysis resulted in 143 census blocks in which all addresses were met with a response that service was unavailable, and 80 blocks in which addresses were met with a message that service was available, but that the user needed to deal directly with a customer service representative to receive service.¹³¹ We conclude that for those blocks where Charter Communications' website indicated service is unavailable, the block should be treated as unserved. Windstream's evidence outweighs Charter Communications' certification. A consumer living in one of these census blocks would likely conclude that broadband was not available from Charter Communications after visiting Charter Communications' website. However, for the 80 census blocks in which the user is told to contact customer service, we conclude that that the block should be treated as served. The message received by the user states that service is available; the fact that the user must take an additional step to receive service does not mean that the census block in question is unserved.

82. Frontier did not respond to Charter Communications' challenge.

83. Consistent with the framework discussed above, we grant Charter Communications' challenge except for the 143 census blocks identified by Windstream as showing no service availability on Charter's website. For the remaining 1,354 census blocks, based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. These challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

¹²⁴ AT&T Reply at Attach.

¹²⁵ CenturyLink Reply at 26-27.

¹²⁶ *Id.*

¹²⁷ Windstream Reply at 32.

¹²⁸ *Id.* at 34-35.

¹²⁹ *Id.* at 35.

¹³⁰ *Id.* at 32-33.

¹³¹ *Id.* at 33. Windstream's reply notes that there are 142 census blocks in which the website indicated service was unavailable. However, Attachment 3 to Windstream's filing (listing the census blocks in question) lists 143 census blocks for Charter Communications.

84. For the 143 census blocks identified by Windstream as showing no service availability on the Charter website, based on the evidence before us, we conclude it is more likely than not that the census blocks are unserved by Charter Communications. Because 30 of those blocks are served by other providers, however, only 113 of these blocks will be treated as unserved for the purposes of the second round of Phase I and therefore eligible for funding.¹³²

85. *Comcast Corporation.* Comcast Corporation (Comcast) challenges 2,217 census blocks elected by AT&T (179 blocks), CenturyLink (268 blocks), FairPoint (28 blocks), Frontier (473 blocks), and Windstream (1,269 blocks).¹³³ One thousand eight of these blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream and Frontier. Windstream had initially challenged 961 of these blocks based on evidence of a lack of porting. Frontier had initially challenged 47 of these blocks, but had lodged its challenge against a different provider: StratusWave. In support of its challenge, Comcast provides a description of how its outside consultant determined which census blocks were served.¹³⁴ Comcast's submission avers that it serves the census blocks in question, and that submission is backed by a certification from the company's executive director for government affairs.¹³⁵ Comcast's submission states "all 2,217 census blocks are areas that Comcast currently serves . . . with speeds of at least 3 Mbps downstream and 768 kbps upstream."¹³⁶ That statement is backed by a certification that "the information in the foregoing submission as it pertains to Comcast is true and correct."¹³⁷ Comcast's claims are generally supported by data provided by Connected Nation.¹³⁸

86. In reply, AT&T argues that Comcast's certification is not explicitly from an officer and that it does not provide billing or address information for customers in each census block.¹³⁹

87. CenturyLink argues that it did not provide data backing its assertions other than the accompanying certifications.¹⁴⁰

88. Frontier argues that its certification is insufficient and instead a mere conclusory statement.¹⁴¹

¹³² A determination that a census block is unserved by a single provider does not necessarily mean that a census block is completely unserved for the purposes of the second round of Connect America Phase I. For example, of the 143 census blocks that are deemed unserved by Charter Communications, we conclude based on other filings in the challenge process that 30 of those blocks are served by another provider, including Comcast, JAB Wireless, and Time Warner Cable. The Bureau has crosschecked unserved census blocks. In circumstances where a block is unserved by one provider but shown as served by another provider, the census block is treated as served.

¹³³ Letter from Mary McManus, Comcast Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹³⁴ *Id.* at 29-30.

¹³⁵ *Id.* at 1, 30.

¹³⁶ *Id.* at 1-2.

¹³⁷ *Id.* at 30.

¹³⁸ Connected Nation Reply at 6-7.

¹³⁹ AT&T Reply at Attach.

¹⁴⁰ CenturyLink Reply at 32-34.

¹⁴¹ Frontier Reply at 4-6.

89. Windstream questions the validity of Comcast's filing given what it considers to be the lack of a clear certification from an officer of the company.¹⁴² Windstream also notes that all addresses in 222 census blocks return messages from Comcast's website that service is not available.¹⁴³ Windstream contends that because of this flaw, Comcast's entire challenge should be rejected.¹⁴⁴ While we decline to dismiss Comcast's entire challenge, we do decide that for the 222 census blocks Windstream identified as showing no service availability on the Comcast website, it is more likely than not that Comcast is not offering broadband.

90. FairPoint did not respond to Comcast's challenge.

91. Consistent with the framework discussed above, we grant Comcast's challenge except for the 222 census blocks identified by Windstream as showing no service availability on the Comcast website. For the remaining 1,995 census blocks, based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. These challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding. For the 222 census blocks identified by Windstream as having no service availability on Comcast's website, based on the evidence before us, we conclude it is more likely than not that the census blocks are unserved by Comcast. Because nine of those blocks are served by other providers, however, only 213 of these blocks will be treated as unserved for the purposes of the second round of Phase I and therefore eligible for funding.¹⁴⁵

92. *Co-Mo Comm.* Co-Mo Comm, Inc. (Co-Mo Comm) challenges seven census blocks elected by CenturyLink.¹⁴⁶ Co-Mo Comm challenged one additional census block (291353851002045), but no carrier elected to serve that block. In support of its challenge, Co-Mo Comm certifies that it is currently deploying a network that will be capable of providing up to 100 Mbps/25 Mbps service in the census blocks in question.¹⁴⁷ Co-Mo Comm notes that construction to the locations in these census blocks will be completed by November 30, 2013.¹⁴⁸

93. In reply, CenturyLink argues that that Co-Mo Comm's certification is deficient.¹⁴⁹ As noted above, we find these arguments unpersuasive. CenturyLink also notes that at the time of CenturyLink's response, Co-Mo Comm was not currently providing service.¹⁵⁰ Service was scheduled to begin on November 30, 2013. Furthermore, the general manager for Co-Mo Comm has reported to Bureau staff that the deployment of plant in these census blocks has since been completed and Co-Mo

¹⁴² Windstream Reply at 35-37.

¹⁴³ *Id.* at 36-37.

¹⁴⁴ *Id.* at 37.

¹⁴⁵ A determination that a census block is unserved by a single provider does not necessarily mean that a census block is completely unserved for the purposes of the second round of Connect America Phase I. *See supra* n.133. Of the 222 census blocks that are deemed unserved by Comcast, we conclude based on other filings in the challenge process that nine of those blocks are served by another provider, including Charter Communications, Planters Communications, Bluegrass Cellular, and Atlantic Broadband.

¹⁴⁶ Letter from Randy Klindt, General Manager, Co-Mo Comm, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹⁴⁷ *Id.* at 1.

¹⁴⁸ *Id.*

¹⁴⁹ CenturyLink Reply at 34.

¹⁵⁰ *Id.*

Comm has begun the final step of activating individual subscribers.¹⁵¹ Co-Mo Comm's deployment is not a mere plan to provide service at some indeterminate or uncertain time in the future. Rather, major network construction in these blocks has been completed, with service scheduled to come online in the immediate future. Given that this Order is issued after the November 30 date given by Co-Mo Comm and that plant deployment is already completed, we conclude that its certification is sufficient to deem these census blocks as served.

94. Consistent with the framework discussed above, we grant Co-Mo Comm's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

95. *Comporium Companies*. Fort Mill Telephone Company, Lancaster Telephone Company, and PBT Communications (Comporium Companies) challenge eight census blocks elected by AT&T (two blocks) and Windstream (six blocks).¹⁵² Windstream initially challenged six of these blocks based on evidence of a lack of porting. Comporium Companies is a rate-of-return incumbent provider.¹⁵³

96. Neither AT&T nor Windstream responds to Comporium Companies' challenge.

97. As noted in a previous Public Notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier's portion of a study area.¹⁵⁴ However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block.

98. Therefore, we dismiss Comporium Companies' challenge as moot. The portion of the census blocks in price cap carrier territories will be treated as unserved for purposes of the second round of Connect America Phase I and therefore those locations are eligible for funding.¹⁵⁵

99. *ComSouth Telenet*. ComSouth Telenet challenges 262 census blocks elected by Windstream.¹⁵⁶ One hundred sixty nine of these blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream on the basis of evidence of a lack of porting. In support of this challenge, ComSouth Telenet submits a certification from its chief financial officer affirming that ComSouth Telenet "provides or can provide within 7-10 days broadband service at or above 3 Mbps/768 kbps" in the census blocks at issue.¹⁵⁷ ComSouth Telenet also submits billing records for customers in the contested census blocks.¹⁵⁸

¹⁵¹ See Letter from Michael J. Jacobs, Legal Advisor to the Chief, Wireline Competition Bureau – Federal Communications Commission, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Jan. 8, 2014) (Letter to the Record).

¹⁵² Letter from Matthew L. Dosch, Senior Vice President for External Affairs, Comporium Companies, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

¹⁵³ *Id.* at Attach. A (noting that "The Comporium Companies are the incumbent providers in these census blocks").

¹⁵⁴ *Split Census Block Public Notice*, 28 FCC Rcd at 13834.

¹⁵⁵ It is unclear from Comporium Companies' filing whether these blocks fall entirely within Comporium Companies' study areas or are split between Comporium Companies' and the price cap carriers' study areas.

¹⁵⁶ Letter from Scott C. Obert-Thorn, Chief Financial Officer, ComSouth Telenet, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (ComSouth Telenet Challenge).

¹⁵⁷ *Id.* at 2.

¹⁵⁸ *Id.* at 3-84.

100. In reply, Windstream argues that ComSouth Telenet neglected to include a list of the FIPS codes for the census blocks it was challenging.¹⁵⁹ Windstream also challenges the sufficiency of some of the billing statements, as not all bills reflect that service at or above 3 Mbps/768 kbps is being purchased.¹⁶⁰ Windstream also argues that ComSouth Telenet's ability to provide service within seven to ten days is not the same as a location being served.¹⁶¹

101. ComSouth Telenet's initial failure to include a list of census blocks appears to stem from oversight, as it subsequently submitted such information into the record.¹⁶² We conclude this procedural shortfall is not fatal to ComSouth Telenet's challenge, however, as Windstream in fact replied to ComSouth Telenet and has had ample time since the reply deadline to file a supplemental response.

102. Consistent with the framework discussed above, we grant ComSouth Telenet's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband from ComSouth Telenet. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

103. *Country Connections*. Country Connections challenges 47 census blocks elected by CenturyLink (two blocks) and Frontier (45 blocks).¹⁶³ As evidence in support of its challenge, Country Connections submits a certification from its president noting that "Country Connections offers standard residential service levels of 4 Mbps x 1 Mbps in the list of census blocks,"¹⁶⁴ a customer billing statement,¹⁶⁵ coverage maps,¹⁶⁶ and facility site verifications.¹⁶⁷ Connected Nation verifies that Country Connections reports providing service in all or part of each listed census block.¹⁶⁸

104. Frontier had initially challenged the designation of 45 census blocks shown as served on the National Broadband Map by Country Connections. In support of this argument, Frontier offered the declarations of 17 Wheelersburg, Ohio, residents noting the lack of broadband service. However, many of the census blocks Frontier challenges fall outside of the Wheelersburg area, so the declarations are of limited value.¹⁶⁹ Country Connections challenged the elections for a subset of the challenged

¹⁵⁹ Windstream Reply at 38. ComSouth Telenet's challenge refers to the list of census blocks being included as attachments A and B to its filing on the Commission's Electronic Comment Filing System (ECFS). ComSouth Telenet Challenge at 2. However, no such attachments were included in ComSouth Telenet's original filing. *But see infra* n.163.

¹⁶⁰ Windstream Reply at 38-39.

¹⁶¹ *Id.* at 38.

¹⁶² After Windstream's reply, ComSouth Telenet's consultant promptly realized the error and filed a copy of its challenge including the census blocks. Letter from John Kuykendall, Vice President, JSI, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 6, 2013).

¹⁶³ Letter from Larry Schriver, President, Country Connections, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (Country Connections Challenge).

¹⁶⁴ *Id.* at 1.

¹⁶⁵ *Id.* at Attach. 3.

¹⁶⁶ *Id.* at Attach. 4.

¹⁶⁷ *Id.* at Attachs. 5-6.

¹⁶⁸ Connected Nation Reply at 8.

¹⁶⁹ Wheelersburg, Ohio, is located in Scioto County. Frontier also challenged census blocks in the non-adjacent counties of Clinton, Greene, Highland, and Ross.

census blocks, providing certifications, service maps, a customer bill, and information on plant and equipment.¹⁷⁰ Given the lack of Frontier evidence outside of the Wheelersburg area, we find in favor of Country Connections on all census blocks that Country Connections challenged. These blocks will be treated as served for purposes of the second round of Connect America Phase I. Frontier filed no reply to Country Connections' challenge.

105. In reply, CenturyLink argues that the certification is not made under penalty of perjury.¹⁷¹ As stated above, a challenger's failure to explicitly make its filing under penalty of perjury does not invalidate the challenge. CenturyLink also notes that the billing statement does not cover the census blocks at issue and that there is no overlay of the census blocks at issue with Country Connections' coverage map.¹⁷² While it is true that the billing statement does not cover the blocks in question, it does demonstrate that Country Connections is offering speeds of at least 4 Mbps/1 Mbps through its fixed wireless Internet service.¹⁷³ Furthermore, while Country Connections did not provide an overlay of census blocks and coverage maps, the Bureau compared the coverage map submitted by Country Connections with the Commission's map of elected census blocks.¹⁷⁴ Such a comparison appears to show overlap. We conclude that Country Connections' submission is sufficient to make it more likely than not the two census blocks in question are served by broadband.

106. Consistent with the framework discussed above, we grant Country Connections' challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

107. *Cox Communications.* Cox Communications (Cox) challenges 531 census blocks elected by AT&T (94 blocks), CenturyLink (94 blocks), and Windstream (343 blocks).¹⁷⁵ Three hundred of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Cox submits several certifications.¹⁷⁶ Connected Nation verified that the most recent National Broadband Map data shows Cox as providing service in all but three of these census blocks in the areas where Connected Nation collects National Broadband Map data.¹⁷⁷

108. In reply, AT&T argues that Cox's certifications are not explicitly from officers of the company, that Cox included census blocks that were serviceable rather than served, and the customer bills or addresses were not provided for each census block.¹⁷⁸

109. CenturyLink and Windstream argue that Cox's certifications do not specifically aver to the type of service offered in each block.¹⁷⁹ However, each certification contains a statement of how the

¹⁷⁰ Country Connections does not contest any census blocks in Scioto County.

¹⁷¹ CenturyLink Reply at 13.

¹⁷² *Id.*

¹⁷³ Country Connections Challenge at Attach. 3.

¹⁷⁴ See Connect America Fund Phase I Round 2, Federal Communications Commission, <http://www.fcc.gov/maps/connect-america-fund-phase-i-round-two> (last visited Jan. 6, 2014).

¹⁷⁵ Comments of Cox Communications, WC Docket No. 10-90 (filed Sept. 27, 2013) (Cox Challenge).

¹⁷⁶ *Id.* at 10-14.

¹⁷⁷ Connected Nation Reply at 8.

¹⁷⁸ AT&T Reply at Attach.

certifier was involved in the data collection process and at least one affirms that “[t]o the best of my knowledge . . . the factual statements in the [challenge] are accurate.”¹⁸⁰ The challenge includes a statement that “throughout all Cox service areas, Cox offers broadband service with speeds that will exceed 3 Mbps/1 Mbps.” Combining these two statements, Cox has, therefore, sufficiently certified that it offers the requisite speed.

110. Windstream also raises issues with Cox’s certifications, notably that the certification does not expressly come from an officer of the company.¹⁸¹ Windstream also objects to Cox’s use of the term “serviceable” locations rather than “served” locations.¹⁸² Windstream also argues that Cox provided no substantive evidence, other than its certifications, to support its challenge.¹⁸³

111. Windstream also notes that it submitted every postal service certified address in 39 census blocks to Cox’s website to determine if service was available, and Cox’s website responded that service was not available.¹⁸⁴ For these 39 blocks, we conclude that it is more likely than not that broadband is unavailable from Cox. Windstream argues this evidence should be enough to invalidate Cox’s entire challenge.¹⁸⁵ We decline to take this approach and instead focus on this evidence in the context of determining the status of the 39 blocks in question.

112. Therefore, we grant Cox’s challenge except for the 39 census blocks identified by Windstream. Consistent with the framework discussed above, for the remaining 492 census blocks, based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. Cox clearly states that it offers broadband throughout the area. These challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding. For the 39 census blocks identified by Windstream, based on the evidence before us, we conclude it is more likely than not that the census blocks are unserved by broadband from Cox. Because seven of those blocks are served by other providers, however, only 32 of these blocks will be treated as unserved for the purposes of the second round of Phase I and therefore eligible for funding.¹⁸⁶

113. *CTC Telecom.* CTC Telecom d/b/a Mosaic Telecom (CTC Telecom) challenges 168 census blocks elected by CenturyLink.¹⁸⁷ In support of its challenge, CTC Telecom submits a certification from its chief executive officer stating that the company is “providing high speed Internet

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¹⁷⁹ CenturyLink Reply at 14; Windstream Reply at 39-40.

¹⁸⁰ *See, e.g.*, Cox Challenge at 10.

¹⁸¹ Windstream Reply at 39-40.

¹⁸² *Id.* at 40-41.

¹⁸³ *Id.* at 41-42.

¹⁸⁴ *Id.* at 40.

¹⁸⁵ *Id.*

¹⁸⁶ A determination that a census block is unserved by a single provider does not necessarily mean that a census block is completely unserved for the purposes of the second round of Connect America Phase I. *See supra* n.132. For example, of the 39 census blocks that are deemed unserved by Cox, we conclude based on other filings in the challenge process that seven of those blocks are served by another provider, ComSouth Telenet.

¹⁸⁷ Letter from N. Scott Behn, Chief Executive Officer, CTC Telecom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013). CTC Telecom submitted 169 FIPS codes, with one duplicate (550959601002098).

access in excess of 4 Mbps downstream and 2 Mbps upstream” to customers in the contested census blocks.¹⁸⁸

114. In reply, CenturyLink argues that CTC Telecom’s certification is a mere conclusory assertion that cannot support its challenge.¹⁸⁹

115. Consistent with the framework discussed above, we grant CTC Telecom’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

116. *Cumberland Cellular*. Cumberland Cellular d/b/a Duo County Telephone (Cumberland Cellular) challenges 57 census blocks elected by Windstream.¹⁹⁰ Forty eight of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Cumberland Cellular submits a certification from its chief executive officer that “it provides or can provide within 7-10 days broadband service at or above 3 Mbps/768 kbps as a competitive local exchange carrier in the census blocks.”¹⁹¹

117. In reply, Windstream argues that Cumberland provides no other evidence than its certification.¹⁹² Consistent with the framework discussed above, we grant Cumberland Cellular’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

118. *Cybernet 1*. Cybernet 1 challenges 342 census blocks elected by CenturyLink.¹⁹³ In support of its challenge, Cybernet 1 submits a certification from its chief executive officer that Cybernet 1 provides broadband in the contested census blocks.¹⁹⁴ Cybernet 1 also provides billing information for customers in the census blocks.¹⁹⁵

119. In reply, CenturyLink alleges that Cybernet 1’s certification does not specifically aver that Cybernet 1 is offering 3 Mbps/768 kbps service.¹⁹⁶ Specifically, the challenge states “Cybernet 1 provides speeds from 1 Mbps down and 1 Mbps up to 8 Mbps and 2 Mbps up in the listed areas.”¹⁹⁷ The

¹⁸⁸ *Id.*

¹⁸⁹ CenturyLink Reply at 37.

¹⁹⁰ Letter from Thomas E. Preston, Chief Executive Officer, Cumberland Cellular, to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Sept. 27, 2013).

¹⁹¹ *Id.* at 1.

¹⁹² Windstream Reply at 43.

¹⁹³ Letter from Richard E. Pedersen, Chief Executive Officer, Cybernet 1, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (Cybernet 1 Challenge). Cybernet 1’s list of census blocks also includes 11 duplicates.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at Attach. 3.

¹⁹⁶ CenturyLink Reply at 15.

¹⁹⁷ Cybernet 1 Challenge at 1.

Bureau contacted Cybernet 1 and confirmed that 3 Mbps/768 kbps is offered in all the disputed census blocks.¹⁹⁸

120. CenturyLink also notes that it is unclear that Cybernet 1 is providing terrestrial service in these blocks, as Cybernet 1 also partners with a satellite provider to resell satellite broadband services.¹⁹⁹ However, all of Cybernet 1's evidence relates to fixed wireless, and nothing in its submission suggests it is including its satellite offerings.

121. In comparing the evidence submitted by Cybernet 1 against the arguments raised by CenturyLink, we find in favor of Cybernet 1. Therefore, we grant Cybernet 1's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

122. *Desert Winds Wireless.* Desert Winds Wireless challenges 41 census blocks elected by CenturyLink.²⁰⁰ In support of this challenge, Desert Winds Wireless provides a map of its tower locations, along with a statement that it currently does provide or can easily provide service to customers in the disputed census blocks.²⁰¹ Desert Winds Wireless also refers to its Form 477 data, which would show service of customers in the disputed blocks.²⁰²

123. In reply, CenturyLink argues that Desert Winds Wireless does not provide a certification for its challenge.²⁰³ Furthermore, CenturyLink notes that Desert Winds Wireless does not specify the nature or speed of the service that is offered, and that the accompanying map of tower locations is of little value.²⁰⁴ Desert Winds Wireless provides merely a statement – not a certification – that some level of service is offered. The map of tower locations would suggest that some census blocks should be served. At least one tower appears to be located within a disputed census block. However, we lack evidence in the record as to the range of these towers or the speed delivered by them. While Desert Winds Wireless cites to its Form 477 data, that data is reported on a census tract rather than census block level. Without any other supporting certification or evidence, the Form 477 data on its own is insufficient for us to determine that the necessary speeds are being provided in the disputed census blocks. Given this lack of evidence, we cannot conclude that it is more likely than not that the census blocks in question are served.

124. Therefore, we deny Desert Winds Wireless's challenge in its entirety. Based on the evidence before us, we do not find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as unserved by Desert Winds Wireless for the purposes of the second round of Connect America Phase I and therefore eligible for funding.

125. *Duo County Telephone Cooperative.* Duo County Telephone Cooperative (Duo County) challenges 24 census blocks elected by Windstream.²⁰⁵ Twenty four of these census blocks are

¹⁹⁸ See Letter to the Record.

¹⁹⁹ CenturyLink Reply at 15.

²⁰⁰ Comments of Desert Winds Wireless, WC Docket No. 10-90 (filed Sept. 26, 2013).

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ CenturyLink Reply at 16.

²⁰⁴ *Id.*

²⁰⁵ Letter from Thomas E. Preston, Chief Executive Officer, Duo County Telephone Cooperative, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Duo County submits a certification that “it provides or can provide within 7-10 days broadband at or above 3 Mbps download, 768 kbps upload in the census blocks.”²⁰⁶ Commission records show Duo County as a rate-of-return carrier.²⁰⁷

126. In reply, Windstream concedes that 20 of the census blocks are outside of its territory.²⁰⁸ Windstream contends that the remaining four blocks are split between Duo County’s territory and Windstream’s territory. As noted in a previous public notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier’s portion of a study area.²⁰⁹ However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block.

127. Therefore, we dismiss Duo County’s challenge as moot. The 20 census blocks that Windstream initially elected that it subsequently conceded are outside of its service territory and are not eligible for funding. A price cap carrier may only use Phase I funds within its own study areas. For the remaining four blocks, the portion of the census blocks that are in Windstream’s territory will be treated as unserved for purposes of the second round of Connect America Phase I and therefore the locations in Windstream’s study area are eligible for funding.

128. *Ellijay Telephone Company.* Ellijay Telephone Company challenges 14 census blocks that were elected by Windstream.²¹⁰ These census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream on the basis of a lack of porting evidence. Ellijay Telephone Company supports its challenge with a certification from an employee stating that the company serves the census blocks in question with high speed Internet over the Commission’s speed threshold.²¹¹ Ellijay Telephone Company also submits plant maps and customer billing statements.²¹²

129. Windstream did not reply to Ellijay Telephone Company’s filing.

130. Therefore, we grant Ellijay Telephone Company’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.²¹³

²⁰⁶ *Id.* at 1.

²⁰⁷ See, e.g., *Wireline Competition Bureau Releases New High-Cost Loop Support Benchmarks for 2013*, Public Notice, 28 FCC Rcd 3256 (Wireline Comp. Bur. 2013) (listing Duo County Telephone Cooperative as one of the rate-of-return carriers receiving support).

²⁰⁸ Windstream Reply at 42.

²⁰⁹ *Split Census Block Public Notice*, 28 FCC Rcd at 13834.

²¹⁰ Comments of Ellijay Telephone Company, Docket No. 10-90 (filed Sept. 17, 2013). Ellijay Telephone Company also challenged two census blocks that were not elected by any price cap carrier (132270504002030 and 132270504002033).

²¹¹ *Id.* at 1.

²¹² *Id.* at 2-157.

²¹³ Ellijay Telephone Company is a rate-of-return carrier. However, it appears the census blocks in question are served through its separate cable network. To the extent that these challenges are merely directed at census blocks split between Ellijay Telephone Company’s rate-of-return study area and Windstream’s study area, and are not

(continued...)

131. *Farmers Telephone Company of Riceville.* Farmers Telephone Company of Riceville (Farmers) challenges five census blocks elected by Windstream.²¹⁴ These blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Farmers certifies that it is offering service at speeds of 3 Mbps/768 kbps in the blocks in question and provides plant maps showing the census blocks at issue.²¹⁵

132. Windstream did not respond to Farmers' challenge. According to Bureau records, Farmers is a rate-of-return carrier. As noted in a previous Public Notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier's portion of a study area.²¹⁶ However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block. To the extent that the listed blocks are split between Farmers and Windstream's territories, Windstream may deploy to areas within its own territory.

133. Therefore, we dismiss Farmers' challenge as moot. The portion of the census blocks in Windstream's territory will be treated as unserved for purposes of the second round of Connect America Phase I and therefore those locations are eligible for funding.

134. *Fidelity Communications.* Fidelity Communications challenges 21 census blocks elected by AT&T (13 blocks) and CenturyLink (8 blocks).²¹⁷ In support of its challenge, Fidelity provides a count of served or serviceable addresses in each census block, along with plant maps of the census blocks at issue.²¹⁸ Fidelity also submits certifications from its vice president of operations noting that "Fidelity offers 3 Mbps/768 kbps or greater Internet access service to customers within each such census block."²¹⁹ This certification is further supported by customer billing statements.²²⁰

135. In reply, AT&T argues that Fidelity Communications' certification is not explicitly from an officer of the company.²²¹

136. CenturyLink raises issue with the billing statements that accompanied Fidelity Communications' challenge.²²² CenturyLink notes that the customer addresses have been redacted from the bills, and that not every bill reflects a customer subscribing to the necessary speed of broadband service.²²³ However, Fidelity Communications did provide a ZIP+4 code for each location, which would

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served by Ellijay Telephone Company's cable network, Windstream is permitted to deploy in the portion of the census blocks within its own territory.

²¹⁴ Letter from Ronald J. Laudner, President and Chief Executive Officer, Farmers Telephone Company of Riceville, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²¹⁵ *Id.* at 1, Attachs. 2, 3.

²¹⁶ *Split Census Block Public Notice*, 28 FCC Red at 13834.

²¹⁷ Letter from Carla Cooper, Director of Regulatory Affairs, Fidelity Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²¹⁸ *Id.* at Attach. A.

²¹⁹ *Id.* at Attach. B.

²²⁰ *Id.* at Attach. C.

²²¹ AT&T Reply at Attach.

²²² CenturyLink Reply at 16-17.

²²³ *Id.* at 17.

have given CenturyLink a reasonable approximation of the customer location. And in any event, the billing statements supplemented the certification from the company's vice president of operations that service is offered to customers in each of the relevant census blocks.

137. Consistent with the framework discussed above, we grant Fidelity Communications' challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.²²⁴

138. *Flint Cable Television.* Flint Cable Television (Flint) challenges 19 census blocks elected by Windstream.²²⁵ These blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Flint submits a certification that "it provides or can provide within 7-10 days broadband service at or above 3 Mbps/768 kbps."²²⁶

139. In reply, Windstream argues that Flint's challenge is only supported by a certification, and that certification notes that service can be made available in seven to ten days, rather than service being currently provided.²²⁷ Consistent with the framework discussed above, we grant Flint's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

140. *Great American Broadband.* Great American Broadband d/b/a OnlyInternet (Great American) challenges 46 census blocks elected by Frontier.²²⁸ These blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Frontier based on the fact that Great American's advertising materials only said that it could provide download speeds "up to 3 Mbps" and did not specify an upload speed. Great American responds with a declaration that Great American "does, in fact, offer Internet access service at speeds of at least 3 Mbps download/768 kbps upload."²²⁹ Great American has since updated its website to reflect this.²³⁰ Great American also provides a map of tower locations along with a customer invoice stating that 3 Mbps/768 kbps service is being provided.²³¹

141. Frontier did not respond to Great American's filing.

142. Therefore, we grant Great American's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The

²²⁴ We note that Fidelity Communications filed a rebuttal to the reply of AT&T and CenturyLink, Letter from Carla Cooper, Director of Regulatory Accounting, Fidelity Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Dec. 2, 2013), which was not considered in light of our determination above.

²²⁵ Letter from James L. Bond, President, Flint Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²²⁶ *Id.* at 1.

²²⁷ Windstream Reply at 43-44.

²²⁸ Letter from Stephen E. Coran, Counsel for Great American Broadband, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²²⁹ *Id.* at 2.

²³⁰ *Id.* at Exh. A.

²³¹ *Id.* at Exhs. B, C.

challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

143. *Hardy Telecommunications*. Hardy Telecommunications challenges 120 census blocks elected by Frontier.²³² In support of its challenge, Hardy Telecommunications submits a certification that “Hardy Telecommunications has been awarded funds through the BTOP and [Broadband Initiatives Program] BIP for West Virginia to provide broadband infrastructure and service for the census blocks listed . . . [and] Hardy Telecommunications offers broadband exceeding 3 Mbps down/768 kbps up speeds in the census blocks listed.” Hardy Telecommunications also provides documentation of its BIP and BTOP funding, along with a map of areas where construction is completed or ongoing.²³³

144. Frontier did not respond to Hardy Telecommunications’ challenge.

145. Therefore, we grant Hardy Telecommunications’ challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question will be served through a BIP/BTOP project. The challenged blocks will be treated as within the service area of a BIP/BTOP project for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

146. *Hart Companies*. Hart Telephone Company and Hart Cable (Hart Companies) challenges Windstream’s election of 27 census blocks.²³⁴ Twenty five of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. Hart Companies certifies that it provides broadband in the census blocks listed in its challenge.²³⁵ Hart Companies provides customer billing statements and coverage maps in support of its challenge.²³⁶

147. In reply, Windstream argues that for 16 of the census blocks, Hart Companies is the rate-of-return incumbent local exchange carrier (ILEC), and the census blocks are split between the territories of Hart Companies and Windstream.²³⁷ As we noted in a previous Public Notice, rate-of-return carriers do not need to challenge such split census blocks merely to ensure that the price cap carrier does not build in the rate-of-return carrier’s territory.²³⁸ The price cap carrier is free to build within its own study area, but may not build in the rate-of-return carrier’s territory. Therefore, we dismiss Hart Companies’ challenge to these 16 blocks as moot.

148. For the remaining 11 census blocks, Hart Companies provides service outside of its ILEC territory through a competitive cable affiliate.²³⁹ Windstream argues that Hart Companies does not

²³² Letter from D. Scott Sherman, General Manager, Hardy Telecommunications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²³³ See *id.* at Attachs. 2-4. While Hardy Telecommunications is an incumbent rate-of-return carrier, it also is affiliated with a competitive broadband provider outside of its study area. *Id.* at 1.

²³⁴ Letter from Randy Daniel, President, Hart Companies, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013) (Hart Companies Challenge).

²³⁵ *Id.* at 1-2.

²³⁶ *Id.* at Attach. C.

²³⁷ Windstream Reply at 44-45.

²³⁸ *Split Census Block Public Notice*, 28 FCC Rcd at 13834.

²³⁹ Hart Companies Challenge at 1.

specify in its certification that the service in these blocks is at speeds of at least 3 Mbps/768 kbps.²⁴⁰ However, Hart Companies does state in the list of census blocks that “Hart Cable, Inc. already provides broadband at or above 3 Mbps/768 kbps within these census blocks.”²⁴¹ This statement, taken in conjunction with Hart Companies certification that it is providing broadband, is sufficient for us to conclude that the requisite speed is being met. For these 11 census blocks, we resolve the challenge in favor of Hart Companies.

149. Therefore, based on the evidence before us, we grant Hart Companies’ challenge for the 11 census blocks in which its cable affiliate provides service. These census blocks will be treated as served by broadband for the purposes of the second round of Connect America Phase I and therefore ineligible for funding. For the remaining 16 census blocks split between Windstream and Hart Companies’ ILEC, we dismiss Hart Companies’ challenge as moot. The portion of these census blocks in Windstream’s territory will be treated as unserved by Hart Companies for the purposes of the second round of Connect America Phase I and therefore the locations in Windstream’s study area are eligible for funding.²⁴² However, one of these blocks, 131479602003063, is served by TruVista Communications, and thus remains ineligible for support even though we treat it as unserved by Hart Companies.

150. *Hiawatha Broadband Services.* Hiawatha Broadband Services (Hiawatha) challenges four census blocks elected by CenturyLink.²⁴³ In support of its challenge, Hiawatha submits a certification from its chief executive officer affirming that Hiawatha “offers broadband exceeding 3 Mbps down/768 kbps up speeds in the census blocks listed.”²⁴⁴

151. In reply, CenturyLink argues that Hiawatha only submitted a certification with no other supporting evidence.²⁴⁵ Consistent with the framework discussed above, we grant Hiawatha’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.²⁴⁶

152. *Hill Country Telecommunications.* Hill Country Telecommunications challenges 19 census blocks elected by Windstream.²⁴⁷ Eighteen of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Hill Country Telecommunications submits a certification that Hill Country Telecommunications “does provide broadband at or above 3 Mbps/768 kbps and the

²⁴⁰ Windstream Reply at 44.

²⁴¹ Hart Companies Challenge at Attach. A.

²⁴² While we dismiss Hart Companies’ challenge on these blocks, Windstream is still required to only conduct Phase I deployments within its own territory.

²⁴³ Letter from Dan Pecarina, Chief Executive Officer/President, Hiawatha Broadband Services, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 10, 2013).

²⁴⁴ *Id.* at 1.

²⁴⁵ CenturyLink Reply at 17-18.

²⁴⁶ We note that Hiawatha filed a rebuttal to the reply of CenturyLink, Letter from Thomas Cohen, Counsel for Hiawatha Broadband Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 8, 2013), which was not considered in light of our determination above.

²⁴⁷ Letter from Delbert Wilson, Chief Executive Officer, HCTC, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 25, 2013).

Company is the competitive carrier in the census block listed.²⁴⁸ Hill Country Telecommunications also provides a map of its service territory.²⁴⁹

153. In reply, Windstream argues that the only evidence that Hill Country Telecommunications offers in support of its certification is “a vague map purportedly setting out the company’s territory.”²⁵⁰ However, we conclude that the certification and map are sufficient to support the challenge.

154. Consistent with the framework discussed above, we grant Hill Country Telecommunications’ challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

155. *Hill Country Telephone Cooperative.* Hill Country Telephone Cooperative (HCTC) challenges 13 census blocks elected by Windstream.²⁵¹ Two of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge HCTC submits a certification of service and a map of served areas.²⁵²

156. As noted in Windstream’s reply, HCTC is a rate-of-return incumbent carrier.²⁵³ The 13 census blocks in question are split between Windstream and HCTC’s study areas. As noted in a previous Public Notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier’s portion of a study area.²⁵⁴ However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block.

157. Therefore, we dismiss HCTC’s challenge as moot. The portion of these census blocks in Windstream’s territory will be treated as unserved by HCTC for purposes of the second round of Connect America Phase I and therefore the locations in Windstream’s study area are eligible for funding.²⁵⁵ However, four of the blocks in question, while unserved by Hill Country Telecommunications, are served by another provider, Time Warner Cable. Therefore, those four blocks will be treated as served by broadband and thus ineligible for support for purposes of the second round of Connect America Phase I.

158. *Huxley Communications Cooperative.* Huxley Communications Cooperative (Huxley) challenges four census blocks elected by Windstream.²⁵⁶ One of these blocks is shown as served on the

²⁴⁸ *Id.* at 1-2.

²⁴⁹ *Id.* at Attach. B.

²⁵⁰ Windstream Reply at 45-46.

²⁵¹ Letter from Delbert Wilson, Chief Executive Officer, Hill Country Telephone Cooperative, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 25, 2013).

²⁵² *Id.* at 1, Attach. B.

²⁵³ Windstream Reply at 46.

²⁵⁴ *Split Census Block Public Notice*, 28 FCC Red at 13834.

²⁵⁵ While we dismiss HCTC’s challenge on these blocks, Windstream may only deploy within its own territory.

²⁵⁶ Comments of Huxley Communications Cooperative, WC Docket No. 10-90 (filed Sept. 25, 2013) (Huxley Challenge).

National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Huxley submits an affidavit from its general manager that it “is capable of delivering bandwidth far greater than the minimum speed of 4 Mbps/1 Mbps” in the listed blocks.²⁵⁷ Huxley also provides advertising materials and billing statements supporting its assertions.²⁵⁸

159. In reply, Windstream argues that Huxley does not certify that it offers 3 Mbps/768 kbps service in all of the relevant census blocks.²⁵⁹ This is directly contradicted by Huxley’s certification stating that “Huxley Communications Cooperative’s fixed wireless broadband platform within the Alleman, Iowa Exchange is capable of delivering bandwidth far greater than the minimum speeds of 4 Mbps/1 Mbps within the above listed blocks.”²⁶⁰ Windstream makes similar arguments about Huxley’s billing statements.²⁶¹ We conclude that Huxley has submitted sufficient evidence to demonstrate that it is offering speeds of at least 3 Mbps/768 kbps in the census blocks at issue.

160. Consistent with the framework discussed above, we grant Huxley’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

161. *Inside Connect Cable.* Inside Connect Cable challenges 14 census blocks elected by Windstream.²⁶² Windstream had initially challenged these blocks based on evidence of a lack of porting. In support of its challenge, Inside Connect Cable submits a signed certification from its managing partner that the company offers 3 Mbps/768 kbps fixed Internet service to customers in each of the blocks listed, as well as customer bills identifying served customers in the listed census blocks.²⁶³

162. Windstream did not reply to Inside Connect Cable’s challenge.

163. Therefore, we grant Inside Connect Cable’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

164. *Internet Xpress.* Internet Xpress challenges 71 census blocks elected by CenturyLink.²⁶⁴ In support of its challenge, Internet Xpress provides a map of the census blocks in question and a statement that “[w]e either can easily provide service to customers in these areas or already do.”²⁶⁵

²⁵⁷ *Id.* at 5.

²⁵⁸ *Id.* at Apps. B, C.

²⁵⁹ Windstream Reply at 46.

²⁶⁰ Huxley Challenge at 5.

²⁶¹ Windstream Reply at 47.

²⁶² Letter from Clay F. Manley, Managing Partner, Inside Connect Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²⁶³ *Id.* at Exhs. B, C.

²⁶⁴ Comments of Internet Xpress, WC Docket No. 10-90 (filed Sept. 26, 2013).

²⁶⁵ *Id.* at 1.

165. In reply, CenturyLink argues that the challenge lacks evidence.²⁶⁶

166. We deny Internet Xpress's challenge in its entirety. Internet Xpress' cursory statement that service is provided is not specific as to the speed of the service offered. Given this failure to meet the minimal requirements for a challenge, we find in favor of CenturyLink.

167. Based on the evidence before us, we do not find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as unserved by Internet Xpress for the purposes of the second round of Connect America Phase I and therefore eligible for funding.

168. *JAB Wireless.* JAB Wireless challenges 849 census blocks elected by CenturyLink (272 blocks), Frontier (36 blocks), and Windstream (541 blocks).²⁶⁷ Two hundred seventy two of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, JAB Wireless provides a certification from its chief development officer and director that in the census blocks listed "JAB offers Internet access service at speeds of at least 3 Mbps download/768 kbps upload."²⁶⁸ JAB Wireless also submits customer records listing addresses for customers in the challenged census blocks.²⁶⁹

169. In reply, CenturyLink argues JAB Wireless redacted the last two numbers of each address, making it impossible to accurately map the locations to a census block.²⁷⁰ CenturyLink argues that to be considered, this information should be submitted in unredacted format. CenturyLink further argues that JAB's claims of coverage are not reflected on the National Broadband Map.²⁷¹ This claim is supported by the submission of Connected Nation, reporting that much of JAB Wireless's coverage is not shown in the most recent National Broadband Map data.²⁷² However, part of the purpose of the challenge process is to allow providers to argue that they provide service even in areas the National Broadband Map shows as unserved, so this lack of previous map reporting is not determinative. Finally, CenturyLink argues that the statements of speed on JAB Wireless's customer lists are ambiguous, and therefore we should reject JAB Wireless's filing for failure to state that it offers the requisite speeds.²⁷³ However, JAB Wireless's certification makes clear it is offering at least 3 Mbps/768 kbps. We conclude that JAB Wireless has submitted sufficient evidence to overcome CenturyLink's arguments.

170. Windstream argues that it is unclear if the chief development officer is an officer of the company, and therefore capable of making a valid certification.²⁷⁴ Windstream also argues that JAB Wireless has not provided any customer billing statements to back up its list of addresses. Frontier did not respond to JAB Wireless's filing.

²⁶⁶ CenturyLink Reply at 18.

²⁶⁷ Letter from Stephen E. Coran, Counsel for JAB Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²⁶⁸ *Id.* at 2.

²⁶⁹ *Id.* at Exhs. A, B.

²⁷⁰ CenturyLink Reply at 35.

²⁷¹ *Id.* at 35.

²⁷² Connected Nation Reply at 10-12.

²⁷³ CenturyLink Reply at 35-36.

²⁷⁴ Windstream Reply at 47-48.

171. Consistent with the framework discussed above, we grant JAB Wireless's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

172. *Lake Communications.* Lake Communications challenges 74 census blocks elected by CenturyLink (14 blocks) and Frontier (60 blocks).²⁷⁵ In support of its challenge, Lake Communications submits a certification from its chief executive officer and from the Lake County administrator affirming that the census blocks in question are part of the Lake County BIP Project.²⁷⁶

173. In reply, CenturyLink argues that Lake Communications did not provide any evidence supporting its certification.²⁷⁷ CenturyLink argues that the certification is a conclusory assertion, and thus Lake Communications' challenge is not supported by evidence.²⁷⁸ Frontier did not respond to Lake Communications' challenge.

174. Consistent with the framework discussed above, we grant Lake Communications' challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question will be served through a BIP project. The challenged blocks will be treated as within the service area of a BIP project for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

175. *Little Apple Technologies.* Little Apple Technologies challenges 70 census blocks elected by CenturyLink.²⁷⁹ In support of its challenge, Little Apple Technologies submits a statement that its Form 477 data shows subscribers meeting the minimum requirements in the census blocks in question, and that it can produce billing statements upon request.²⁸⁰

176. CenturyLink did not respond to Little Apple Technologies' challenge.

177. Therefore, we grant Little Apple Technologies challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

178. *Mediacom Communications Corporation.* Mediacom Communications Corporation (Mediacom) challenges 856 census blocks elected by AT&T (26 blocks), CenturyLink (40 blocks), Frontier (21 blocks), and Windstream (769 blocks).²⁸¹ Six hundred fifty five of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Frontier and Windstream. Frontier had initially challenged 13 of these census blocks based on evidence that other providers were not offering the requisite service; however, none of these challenges appear to relate to

²⁷⁵ Letter from Matthew Huddleston, Administrator, Lake County, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 11, 2013).

²⁷⁶ *Id.* at 1.

²⁷⁷ CenturyLink Reply at 18-19.

²⁷⁸ *Id.*

²⁷⁹ Opposition of Paul Tackett, CEO, Little Apple Technologies, WC Docket No. 10-90 (filed Sept. 19, 2013).

²⁸⁰ *Id.*

²⁸¹ Comments of Mediacom, WC Docket No. 10-90 (filed Sept. 27, 2013) (Mediacom Challenge). Connected Nation states that, for census blocks in Iowa and Minnesota, Mediacom is reporting service at or above 3 Mbps/768 kbps in all but 29 census blocks. Connected Nation Reply at 12-13.

Mediacom. Windstream had initially challenged 642 of the census blocks based on evidence of a lack of porting. In support of its challenge, Mediacom submits a declaration from its group vice president of legal and public affairs stating that Mediacom “advertises and provides broadband Internet access service at speeds exceeding 3 Mbps downstream and 768 kbps upstream in the census blocks at issue.”²⁸² Mediacom also notes the number of serviceable homes it passes in each census block.²⁸³

179. In reply, AT&T argues that the certification in question is not explicitly from an officer and that customer bills or addresses for each census block are not provided.²⁸⁴ CenturyLink argues that Mediacom has not provided sufficient evidence to support its challenge, offering only an officer certification and no maps or customer addresses.²⁸⁵

180. Frontier argues that Mediacom has not explicitly stated that its vice president of legal and public affairs is an officer of the company.²⁸⁶ Furthermore, Frontier notes that Mediacom only offers a count of serviceable locations, rather than locations actually served.²⁸⁷ Frontier also notes that, in many census blocks, Mediacom only lists a small subset of the total locations as serviceable.²⁸⁸ However, this is generally sufficient to render a census block as served, both for purposes of the National Broadband Map and for the challenge process.

181. Windstream’s arguments are similar to those of Frontier, arguing it is unclear whether the vice president is an officer of the company, addresses are listed as “serviceable” rather than “served,” and often only a small subset of total locations are shown as serviceable by Mediacom.²⁸⁹ Windstream further contends that it is unclear how Mediacom developed its list of census blocks, as it may just be a comparison to its franchise territories rather than actual deployment maps.²⁹⁰ However, this scenario appears to be merely hypothetical, and Mediacom has provides a certification that it actually advertises and provides service in the census blocks at issue.

182. Consistent with the framework discussed above, we grant Mediacom’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.²⁹¹

183. *Merrimac Communications Ltd.* Merrimac Communications Ltd. (Merrimac) challenges one census block elected by Frontier.²⁹² In support of its challenge, Merrimac provides an

²⁸² Mediacom Challenge at 3.

²⁸³ *Id.* at Exh. A.

²⁸⁴ AT&T Reply at Attach.

²⁸⁵ CenturyLink Reply at 19.

²⁸⁶ Frontier Reply at 6.

²⁸⁷ *Id.*

²⁸⁸ *Id.* at 7.

²⁸⁹ Windstream Reply at 48-50.

²⁹⁰ *Id.* at 48-49.

²⁹¹ We note that Mediacom filed a rebuttal to the replies of the price cap carriers, Letter from Craig A. Gilley, Counsel for Mediacom, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Dec. 5, 2013), which was not considered in light of our determination above.

²⁹² Letter from Bart Olson, President, Merrimac Communications Ltd., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013).

officer certification that the census block in question is served with speeds of 3 Mbps/768 kbps.²⁹³ Merrimac also provides customer billing statements showing service in the block in question.²⁹⁴

184. Frontier makes no reply to Merrimac's challenge.

185. Therefore, we grant Merrimac's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the block in question is served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

186. *MetroCast Cablevision of New Hampshire.* MetroCast Cablevision of New Hampshire (MetroCast) challenges one census block elected by FairPoint.²⁹⁵ MetroCast's vice president of system operations certifies that the census block is served by speeds greater than 3 Mbps/768 kbps.²⁹⁶ MetroCast also provides customer billing statements, plant maps, and advertising materials supporting their claim.²⁹⁷

187. FairPoint did not respond to MetroCast's filing.

188. Therefore, we grant MetroCast's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the block in question is served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

189. *Mi Connection.* Mi Connection challenges three census blocks elected by Windstream.²⁹⁸ These blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a lack of porting activity. In support of its challenge, Mi Connection provides a certification from its chief executive officer that Mi Connection serves the blocks in question with speeds of 3 Mbps/768 kbps.²⁹⁹ Mi Connection also provides partially redacted addresses and billing statements for customers in the census blocks at issue.³⁰⁰

190. Windstream does not respond to Mi Connection's challenge.

191. Therefore, we grant Mi Connection's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

192. *Midstate Communications.* Midstate Communications challenges 16 census blocks elected by CenturyLink.³⁰¹ Midstate Communications submits an affidavit from its general manager

²⁹³ *Id.* at Exh. B.

²⁹⁴ *Id.* at Exh. C.

²⁹⁵ Letter from Danny L. Jobe, Vice President of System Operations, MetroCast Cablevision of New Hampshire, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²⁹⁶ *Id.* at 1.

²⁹⁷ *Id.* at 2-9.

²⁹⁸ Letter from David Auger, Chief Executive Officer, Mi Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

²⁹⁹ *Id.* at Exh. B.

³⁰⁰ *Id.* at Exhs. A, C.

³⁰¹ Comments of Midstate Communications, WC Docket No. 10-90 (filed Sept. 26, 2013).

certifying that the “listed blocks are served with at least 4 Mbps/1 Mbps broadband service as a result of Midstate Communications, Inc.’s stimulus project.”³⁰² Midstate Communications also provides redacted billing statements for customers within the disputed blocks.³⁰³

193. In reply, CenturyLink argues that it had conducted due diligence to search for BIP/BTOP projects.³⁰⁴ This is not relevant, however, given that Midstate Communications has now completed deployment. Not only are the locations in question receiving BIP/BTOP funding, they are actually served by 3 Mbps/768 kbps Internet access service. Therefore, CenturyLink’s argument is insufficient to overcome Midstate Communication’s evidentiary showing. CenturyLink also notes that the National Broadband Map shows Midstate Communications as only partially serving two of the census blocks at issue.³⁰⁵ To the extent the underlying data of the National Broadband Map shows partial coverage in those census blocks, CenturyLink may deploy to locations in the unserved areas of such census blocks.³⁰⁶

194. Therefore, we grant Midstate Communications’ challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I, and therefore are ineligible for funding.³⁰⁷

195. *Muenster Telephone Corporation.* Muenster Telephone Corporation of Texas d/b/a Nortex Communications (Muenster) challenges 11 census blocks elected by Windstream.³⁰⁸ In support of its challenge, Muenster provides a certification from its chief financial officer certifying that Muenster “offers 3 Mbps/768 kbps or greater Internet service to customers in the census blocks.”

³⁰² *Id.* at 6.

³⁰³ *Id.* at App. B.

³⁰⁴ CenturyLink Reply at 36.

³⁰⁵ *Id.* at 36-37.

³⁰⁶ See *Connect America et al.*, WC Docket No. 10-90 et al., Second Order on Reconsideration, 27 FCC Rcd 4648, 4651, paras. 10-11 (2012) (*Second Order on Reconsideration*). Our decision herein treats the blocks as if the National Broadband Map showed them as served. In such circumstances, a price cap carrier can still deploy in a census block shown as served as long as the underlying data on the National Broadband Map show unserved locations in the census block.

³⁰⁷ We note that Midstate Communications filed a rebuttal to the reply of CenturyLink. Letter from Mark Benton, General Manager, Midstate Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 12, 2013). Midstate Communications disputes CenturyLink’s contention that two of the census blocks are only partially served; however, the current challenge process is not designed to resolve sub-census block challenges (i.e., determining that every location in a census block is served). For census blocks over two square miles, underlying National Broadband Map data may show some locations as unserved. However, we remind price cap carriers that they may only deploy to locations that “to the best of the carrier’s knowledge . . . are, in fact, unserved.” 47 C.F.R. § 54.312(c)(5)(ii). Filings by the existing provider showing service to every location in a particular block would likely undermine a carrier’s belief that a location was, in fact, unserved.

³⁰⁸ Letter from Gail Odell, Authorized Representative for Muenster Telephone Corporation of Texas, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (Muenster Challenge). Connected Nation reports that Muenster is shown as providing service throughout two of the census blocks and partially serving the remaining nine blocks. Connected Nation Reply at 13.

196. In reply, Windstream argues that Muenster's certification is not sufficient evidence to support a challenge.³⁰⁹ Windstream also contends that, to the extent Muenster's challenge applies to its rate-of-return incumbent study area, the challenge is invalid.³¹⁰ We grant Muenster's challenge in its entirety. While Muenster operates as an incumbent local exchange carrier, it is also a fixed wireless broadband provider.³¹¹ Bureau staff confirmed with Muenster's representatives that the census blocks in question are within Muenster's wireless network, not its incumbent study area.³¹² Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

197. *N.E. Colorado Cellular*. N.E. Colorado Cellular d/b/a Viaero Wireless (N.E. Colorado) challenges 108 census blocks elected by CenturyLink.³¹³ N.E. Colorado provides a certification from its chief technology officer stating that N.E. Colorado "is providing coverage in the census blocks listed . . . and is capable of provisioning service in those census blocks at speed at or above 3 Mbps downlink and 768 kbps uplink."³¹⁴ N.E. Colorado also provides advertising materials, propagation maps, and customer billing statements supporting its certification.³¹⁵

198. In reply, CenturyLink argues that the redaction of billing statements makes verification impossible.³¹⁶ CenturyLink also contends that according to the National Broadband Map, N.E. Colorado is a mobile provider, not a fixed provider.³¹⁷ However, N.E. Colorado's advertising materials clearly demonstrate that it offers a fixed product.³¹⁸ CenturyLink notes that N.E. Colorado fails to provide a billing statement for each block,³¹⁹ but as discussed above, there is no such requirement. Lastly, CenturyLink argues that the maps provided by N.E. Colorado show either a lack of coverage or a lack of customers in the highlighted census blocks.³²⁰ The lack of customers is of no consequence; as discussed above, it is not necessary for a provider to have customers in a census block to be counted as serving that census block. Furthermore, N.E. Colorado is not challenging every census block highlighted on the map, and thus it is entirely plausible that some blocks would have no coverage.³²¹ The Bureau was not able to find a census block that N.E. Colorado challenged, but had no coverage according to the provided map. Weighing CenturyLink's arguments against N.E. Colorado's evidence, we find in favor of N.E. Colorado.

³⁰⁹ Windstream Reply at 50.

³¹⁰ *Id.* at 50-51.

³¹¹ Muenster Challenge at 1.

³¹² *See* Letter to the Record.

³¹³ Comments of N.E. Colorado Cellular, WC Docket No. 10-90 (filed Sept. 27, 2013) (N.E. Colorado Challenge).

³¹⁴ *Id.* at Attach. D.

³¹⁵ *Id.* at Attachs. A, C.

³¹⁶ CenturyLink Reply at 20.

³¹⁷ *Id.*

³¹⁸ N.E. Colorado Challenge at Attach. A.

³¹⁹ CenturyLink Reply at 20.

³²⁰ *Id.*

³²¹ For example, census block 080899684001349 is highlighted on the map of Otero County. However, N.E. Colorado is not challenging that block.

199. Therefore, we grant N.E. Colorado's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

200. *NewWays Networking*. NewWays Networking challenges 97 census blocks elected by Frontier.³²² In support of its challenge, NewWays Networking submits a certification that it is contesting areas where it can provide speeds of at least 3 Mbps/768 kbps.³²³ It also provides a coverage map showing its service area.³²⁴

201. Frontier does not respond to NewWays Networking's challenge.

202. Therefore, we grant NewWays Networking's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

203. *North State Telephone Company*. North State Telephone Company challenges one census block elected by Windstream.³²⁵ This census block is shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. North State is a rate-of-return incumbent local exchange carrier. It claims the census block in question falls entirely in its service territory and thus Windstream may not deploy in the census block. As stated in a previous public notice, a rate-of-return carrier need not file a challenge merely to affirm that the elected census blocks are partially within its service territory.³²⁶ We reiterate that Windstream, like all other price cap carriers, may only deploy within its own study areas. To the extent that Windstream and North State Telephone Company disagree about the study area boundaries in the disputed census block, we decline to address such matters in this challenge process, concluding that the appropriate venue for such disputes is the Commission's study area boundary data collection.

204. Therefore, we dismiss North State Telephone Company's challenge as moot. The portion (if any) of the census block in Windstream's territory would be treated as unserved by North State Telephone Company for purposes of the second round of Connect America Phase I. However, the block in question, while unserved by Hill Country Telecommunications, is served by another provider, Time Warner Cable. Therefore, the block will be treated as served by broadband and thus ineligible for support for purposes of the second round of Connect America Phase I.

205. *Northland Cable Television*. Northland Cable Television (Northland) challenges 17 census blocks elected by Windstream (16 blocks) and Frontier (one block).³²⁷ Fourteen of these census

³²² Letter from Scott B. Reed, Owner/Manager, NewWays Networking, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 25, 2013). NewWays Networking also challenges four census blocks that no price cap carrier elected (181770107002047, 1816109607002009, 1816109607002008, 1816109607002011).

³²³ *Id.* at 1, 4.

³²⁴ *Id.* at 4.

³²⁵ Letter from James D. McCarron, Vice President of Corporate Administration, North State Telephone Company, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

³²⁶ *Split Census Block Public Notice*, 28 FCC Rcd at 13834.

³²⁷ Letter from Paul Milan, Vice President and General Counsel, Northland Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 25, 2013) (Paul Milan Letter);

(continued...)

blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Northland files certifications that it offers broadband exceeding 3 Mbps/768 kbps in the census blocks at issue.³²⁸ Northland also submits redacted billing information for customers in the disputed blocks.³²⁹

206. In reply, Windstream argues that at several points in its filing, Northland says that areas are merely serviceable rather than currently served, and thus should not be excluded from Phase I support.³³⁰ Windstream also argues that the redacted customer billing statements do not list the speeds that are offered.³³¹ We are not persuaded by Windstream's argument that Northland characterizes areas as "serviceable" given Northland's certification that it offers broadband in the census blocks at issue. We conclude that the certification's statement that speeds at or above 3 Mbps/768 are offered is sufficient to establish the speed requirement.

207. Frontier did not respond to Northland's challenge.

208. Consistent with the framework discussed above, we grant Northland's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

209. *Nova Cablevision.* Nova Cablevision files a challenge for a portion of its census blocks.³³² However, Nova Cablevision does not submit full 15 digit FIPS codes for the census blocks in question, and the Bureau is unable to determine what areas are being challenged. Without such information, the Bureau cannot process the challenge. Therefore, we reject Nova Cablevision's challenge.

210. *Panhandle Telephone Cooperative.* Panhandle Telephone Cooperative (Panhandle) challenges 30 census blocks elected by Windstream.³³³ In support of its challenge, Panhandle states in its comments that it provides "speeds in excess of 3 Mbps/768 kbps in these census blocks," and that statement is supported by a declaration from the company's chief executive officer.³³⁴ Panhandle also submits invoices for customers in the disputed census blocks.³³⁵

(Continued from previous page) _____

Letter from Matt Cryan, Senior Vice President, Northland Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013) (Matt Cryan Letter). Connected Nation reports that the most recent data submission shows Northland providing service in all of these census blocks. Connected Nation Reply at 13-14.

³²⁸ Paul Milan Letter at 2; Matt Cryan Letter at 1.

³²⁹ Paul Milan Letter at 4-16.

³³⁰ Windstream Reply at 51-52.

³³¹ *Id.* at 52.

³³² Letter from Robert G. Fischer, President, Nova Cablevision, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 23, 2013); Letter from Robert G. Fischer, President, Nova Cablevision, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

³³³ Comments of Panhandle Telephone Cooperative, WC Docket No. 10-90 (filed Sept. 27, 2013) (Panhandle Challenge). Connected Nation reports that Panhandle's most recent data submission shows service throughout or in part of all of the listed census blocks. Connected Nation Reply at 14.

³³⁴ Panhandle Challenge at 1, Exh. B.

³³⁵ *Id.* at Exh. C.

211. In reply, Windstream argues that Panhandle does not provide sufficient evidence to support its challenge.³³⁶ Windstream argues that, to the extent the challenge is based on National Broadband Map data, the challenge provides no new evidence.³³⁷ However, Panhandle notes in its challenge that the National Broadband Map understated Panhandle's coverage, and the census blocks in question do not currently appear as served on the National Broadband Map.³³⁸ Windstream also argues that Panhandle only submits the billing statement for a single customer while challenging 30 census blocks.³³⁹ However, as discussed above, there is no requirement to submit billing addresses for every challenged census block.

212. Consistent with the framework discussed above, we grant Panhandle's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

213. *Planters Communications.* Planters Communications challenges 12 census blocks elected by Windstream.³⁴⁰ Six of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Planters submits plant maps showing its equipment in the challenged census blocks.³⁴¹ Furthermore, the company's general manager certifies that Planters Communications "provides or can provide within 7-10 days broadband service at or above 3 Mbps/768 kbps."³⁴²

214. In reply, Windstream argues that Planters Communications' claims that it can provide service within seven to ten days are insufficient to count an area as served.³⁴³ Windstream also argues that Planters Communications' fails to submit evidence to support its challenge.³⁴⁴

215. Consistent with the framework discussed above, we grant Planters Communications' challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

216. *Planters Rural Telephone Cooperative.* Planters Rural Telephone Cooperative (Planters) challenges one census block elected by Windstream.³⁴⁵ Planters alleges the census block in question falls entirely within its rate-of-return study area.³⁴⁶ As stated in a previous public notice, a rate-

³³⁶ Windstream Reply at 53.

³³⁷ *Id.*

³³⁸ Panhandle Challenge at 1-2.

³³⁹ Windstream Reply at 53.

³⁴⁰ Letter from Stephen Milner, General Manager, Planters Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

³⁴¹ *Id.* at Attach. B.

³⁴² *Id.* at 1.

³⁴³ Windstream Reply at 53-54.

³⁴⁴ *Id.* at 54.

³⁴⁵ Letter from Stephen Milner, General Manager, Planters Rural Telephone Cooperative, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

³⁴⁶ *Id.*

of-return carrier need not file a challenge merely to affirm that the elected census blocks are partially within its service territory.³⁴⁷ We reiterate that Windstream, like all other price cap carriers, may only deploy within its own study areas. To the extent that Windstream and Planters disagree about the study area boundaries in the disputed census block, we decline to address such matters in this challenge process, concluding that the appropriate venue for such disputes is the Commission's study area boundary data collection.

217. Therefore, we dismiss Planters' challenge as moot. The portion (if any) of the census block in Windstream's territory would be treated as unserved by Planters' for purposes of the second round of Connect America Phase I. However, the block in question, while treated as unserved by Planters, is served by another provider, Comcast. Therefore, the block will be treated as served by broadband and thus ineligible for support for purposes of the second round of Connect America Phase I.

218. *Public Service Wireless.* Public Service Wireless challenges 15 census blocks elected by Windstream.³⁴⁸ These census blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a lack of porting. Public Service Wireless supports its challenge with a certification that "it provides or can provide within 7-10 days broadband service at or above 3 Mbps/768 kbps" in the blocks in question.³⁴⁹

219. In reply, Windstream argues that the assertion that service can be made available in seven to ten days is not the same as currently providing service.

220. Consistent with the framework discussed above, we grant Public Service Wireless's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

221. *Ritter Communications.* Ritter Communications challenges four census blocks elected by Windstream.³⁵⁰ Ritter Communications is filing on behalf of incumbent rate-of-return carriers.³⁵¹ As noted in a previous public notice, there is no need for rate-of-return carriers to file challenges in order to prevent the price cap carrier from deploying in the rate-of-return carrier's portion of a study area.³⁵² However, the existence of a rate-of-return carrier in a census block does not preclude the price cap carrier from deploying to locations in its portion of the census block.

222. Therefore, we dismiss Ritter Communications' as moot. The portion of the census blocks in Windstream's territory will be treated as unserved by Ritter Communications for purposes of the second round of Connect America Phase I. However, two of the blocks in question, while treated as unserved by Ritter Communications, are served by another provider, Cox Communications. Therefore, those two blocks will be treated as served by broadband and thus ineligible for support for purposes of the second round of Connect America Phase I.

³⁴⁷ *Split Census Block Public Notice*, 28 FCC Rcd at 13834.

³⁴⁸ Letter from E. Kelly Bond, President, Public Service Wireless, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

³⁴⁹ *Id.* at 1.

³⁵⁰ Letter from John Strode, Vice President for External Affairs, Ritter Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 26, 2013).

³⁵¹ *Id.* at 1.

³⁵² *Split Census Block Public Notice*, 28 FCC Rcd at 13834.

223. *Rural Broadband Investments.* Rural Broadband Investments d/b/a NewWave Communications (RBI) challenges 146 census blocks elected by Frontier.³⁵³ In support of its challenge, RBI submits a certification that it offers 3 Mbps/768 kbps Internet service to customers in the identified census blocks.³⁵⁴ RBI also submits advertising materials and redacted billing statements showing service.³⁵⁵

224. Frontier did not respond to RBI's challenge.

225. Therefore, we grant RBI's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

226. *Rural Broadband Network Services.* Rural Broadband Network Services (RBNS) challenges 12 census blocks elected by CenturyLink.³⁵⁶ In support of its challenge, RBNS files a statement backed by an officer certification that it "provides fixed Internet access with speeds of at least 3 Mbps/768 kbps in the census block identified."³⁵⁷ RBNS also provides tower coverage maps showing its service area.³⁵⁸

227. In reply, CenturyLink argues that RBNS's challenge should be denied.³⁵⁹ CenturyLink argues that the certification provided only attests to customers being served in one census block. While true, the certification also affirms that "all facts set forth [in the challenge] are true,"³⁶⁰ and the challenge itself states that RBNS can provide service in the census blocks in question.³⁶¹ CenturyLink also argues that the RBNS challenge states that it merely can provide service to the customers in the census blocks in question without an extraordinary commitment of resources; RBNS does not affirmatively state that the census blocks are served.³⁶²

228. Consistent with the framework discussed above, we grant RBNS's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

229. *San Juan Cable.* San Juan Cable challenges 48 census blocks that it states were elected by Frontier.³⁶³ Bureau records do not indicate that any of the listed census blocks were elected by

³⁵³ Comments of Rural Broadband Investments, WC Docket No. 10-90 (filed Sept. 27, 2013).

³⁵⁴ *Id.* at Exh. B.

³⁵⁵ *Id.* at Exhs. C, D.

³⁵⁶ Opposition of Rural Broadband Network Services, WC Docket No. 10-90 (filed Sept. 27, 2013) (RBNS Challenge).

³⁵⁷ *Id.* at 1.

³⁵⁸ *Id.* at Attach. B.

³⁵⁹ CenturyLink Reply at 21.

³⁶⁰ RBNS Challenge at 11.

³⁶¹ *Id.* at 1.

³⁶² CenturyLink Reply at 21.

³⁶³ Letter from Ray Poorman, General Manager, San Juan Cable, to the Federal Communications Commission, WC Docket No. 10-90 (Sept. 23, 2013).

Frontier in the second round Connect America Phase I. As Frontier notes in its reply, these areas were elected by Frontier in the first round of Connect America Phase I.³⁶⁴ The present challenge process cannot be used to dispute areas elected to in the first round of Phase I. We therefore reject San Juan Cable's challenge.

230. *Santa Rosa Telephone Cooperative.* Santa Rosa Telephone Cooperative (Santa Rosa) challenges 54 census blocks elected by Windstream.³⁶⁵ Fifty three of these census blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Santa Rosa submits a certification that Santa Rosa "offers 3 Mbps/768 kbps or greater Internet service to customers in the census blocks."³⁶⁶

231. In reply, Windstream arguing that Santa Rosa's certification is insufficient to support the challenge.³⁶⁷ Windstream also argues that it is unclear which census blocks are part of Santa Rosa's incumbent rate-of-return operation (and thus not subject to challenge) and which blocks are part of Santa's Rosa's competitive carrier network.³⁶⁸ Santa Rosa's petition states "Santa Rosa CLEC provides broadband service exceeding the 3 Mbps/768 kbps eligibility threshold for CAF Phase I Round 2 funding in the aforementioned census blocks."³⁶⁹ This statement is sufficiently clear that all challenged census blocks are served by Santa Rosa's competitive network, and thus may be challenged.

232. Therefore, we grant Santa Rosa's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

233. *Service Electric Cablevision.* Service Electric Cablevision challenges two census blocks elected by Windstream.³⁷⁰ These census blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Service Electric Cablevision offers a certification from its senior vice president that "Service Electric offers 3 Mbps/768 kbps or greater Internet service to customers in the [indicated] census blocks."³⁷¹ It also submits customer records and Form 477 data to bolster its claim.³⁷²

234. Windstream did not respond to Service Electric Cablevision's challenge.

235. Therefore, we grant Service Electric Cablevision's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by

³⁶⁴ Frontier Reply at 7.

³⁶⁵ Letter from Gail Odell, Authorized Representative, Santa Rosa Telephone Cooperative, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (Santa Rosa Challenge). Connected Nation reports that Santa Rosa is shown in the most recent broadband data submission as providing service throughout the listed blocks. Connected Nation Reply at 14.

³⁶⁶ Santa Rosa Challenge at 2.

³⁶⁷ Windstream Reply at 56-57.

³⁶⁸ *Id.* at 56.

³⁶⁹ Santa Rosa Challenge at 1.

³⁷⁰ Service Electric Cablevision Opposition, WC Docket No. 10-90 (filed Sept. 24, 2013).

³⁷¹ *Id.* at Exh. 1.

³⁷² *Id.* at Exhs. 2, 3.

broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

236. *Shenandoah Cable Television (Virginia)*. Shenandoah Cable Television (Shenandoah) challenges 27 census blocks elected by CenturyLink.³⁷³ In support of its challenge, Shenandoah submits a certification from its vice president of wireline and engineering stating that the company “offers fixed Internet access with speeds of at least 3 Mbps/768 kbps to customers in the census blocks listed.”³⁷⁴ Shenandoah also submits a number of redacted customer billing statements, along with maps of the areas it serves with high speed data.³⁷⁵

237. In reply, CenturyLink argues that Shenandoah has not provided customer billing statements for every census block.³⁷⁶ As discussed above, there is no requirement to provide billing statements for every census block. CenturyLink also contends that Shenandoah’s maps show it offering only partial coverage in some of the challenged census blocks.³⁷⁷ CenturyLink argues we should deny Shenandoah’s challenge on these blocks.³⁷⁸ Partial coverage is sufficient to render a census block ineligible for Phase I support.³⁷⁹ Therefore, we reject CenturyLink’s argument, and find in favor of Shenandoah.

238. Therefore, we grant Shenandoah’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.³⁸⁰

239. *Shenandoah Cable Television (West Virginia)*. Shenandoah Cable Television (Shenandoah) challenges 138 census blocks elected by Frontier.³⁸¹ Three of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by

³⁷³ Letter from Raymond B. Ostroski, Vice President and General Counsel, Shenandoah Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Sept. 27, 2013).

³⁷⁴ *Id.* at Exh. B.

³⁷⁵ *Id.* at Exh C.

³⁷⁶ CenturyLink Reply at 22.

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ To the extent the underlying data of the National Broadband Map shows partial coverage in those census blocks, CenturyLink may deploy to locations in the unserved areas of such census blocks. *See Second Order on Reconsideration*, 27 FCC Rcd at 4651, paras. 10-11. Our decision herein treats the blocks as if the National Broadband Map showed them as served. In such circumstances, a price cap carrier can still deploy in a census block shown as served as long as the underlying data on the National Broadband Map show unserved locations in the census block. The National Broadband Map may show a block as partially served either based on the shapefiles submitted by wireless providers, which show only a portion of the block as covered, or for census blocks of over two square miles, where the National Broadband Map may show certain street segments within the block as unserved.

³⁸⁰ We note that Shenandoah filed a rebuttal to the replies of CenturyLink, Letter from Raymond B. Ostroski, Vice President and General Counsel, Shenandoah Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 22, 2013), which was not considered in light of our determination above.

³⁸¹ Letter from Raymond B. Ostroski, Vice President and General Counsel, Shenandoah Cable Television, to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Sept. 26, 2013).

Frontier based on a different fixed wireless provider's failure to provide adequate speeds. In support of its challenge, Shenandoah submits a certification from its vice president of wireline and engineering stating that the company "offers fixed Internet access with speeds of at least 3 Mbps/768 kbps to customers in the census blocks listed."³⁸² Shenandoah also submits a number of redacted customer billing statements, along with maps of the areas it services with high speed data.³⁸³

240. As Frontier's initial challenge did not relate to Shenandoah, it is moot. Frontier did not respond to Shenandoah's challenge.

241. Therefore, we grant Shenandoah's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.

242. *Sierra Communications.* Sierra Communications challenge 53 census blocks elected by CenturyLink.³⁸⁴ In support of its challenge, Sierra Communications submits a certification from its general manager stating that "Sierra offers broadband exceeding 3 Mbps down/768 kbps up speeds in the census blocks listed."³⁸⁵ Sierra Communications also provides a map of its fixed wireless coverage along with redacted Form 477 data.³⁸⁶

243. In reply, CenturyLink argues that the challenge should be dismissed due to the redaction of Form 477 data.³⁸⁷

244. Consistent with the framework discussed above, we grant Sierra Communications' challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and ineligible for funding.

245. *South Slope Cooperative Telephone Company.* South Slope Cooperative Telephone Company (South Slope) challenges six census blocks elected by Windstream.³⁸⁸ These census blocks are shown as served on the National Broadband Map, but that designation was challenged by Windstream based on evidence of a lack of porting. In support of its challenge, South Slope submits an affidavit from its chief executive officer stating that its network in the challenged area is "capable of delivering bandwidth that meets or exceed 4 Mbps downstream and 1 Mbps upstream within the . . . listed blocks."³⁸⁹ South Slope also submits advertising materials and customer billing information supporting its challenge.³⁹⁰

³⁸² *Id.* at Exh. B.

³⁸³ *Id.* at Exh C.

³⁸⁴ Letter from Paul Briesch, General Manager, Sierra Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

³⁸⁵ *Id.* at 2.

³⁸⁶ *Id.* at 5-14.

³⁸⁷ CenturyLink Reply at 40.

³⁸⁸ Comments of South Slope Cooperative Telephone Company, WC Docket No. 10-90 (filed Sept. 26, 2013) (South Slope Challenge). Connected Nation confirms that the most recent broadband data submissions show South Slope offering broadband in all or part of every challenged census block. Connected Nation Reply at 14-15.

³⁸⁹ South Slope Challenge at App. A.

³⁹⁰ *Id.* at Apps. B, C.

246. Windstream did not respond to South Slope's challenge.

247. Therefore, we grant South Slope's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

248. *Southern Ohio Communications Services*. Southern Ohio Communications Services (SOCS) challenges 53 census blocks elected by Frontier.³⁹¹ In support of its challenge, SOCS provides a certification from its general manager that it has received BIP funding to build broadband to the indicated census blocks.³⁹²

249. Frontier did not respond to SOCS's challenge.

250. Therefore, we grant SOCS's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question will be served through a BIP project. The challenged blocks will be treated as within the service area of a BIP project for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

251. *SpeedConnect*. SpeedConnect challenges 644 census blocks elected by CenturyLink (581 blocks), Frontier (52 blocks), and Windstream (11 blocks).³⁹³ Nine of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. SpeedConnect makes a separate submission for each state it operates in. Evidence in each submission generally includes a certification from its chief executive officer that it provides speeds as high as 10 Mbps/1 Mbps in the areas in question.³⁹⁴ SpeedConnect also submits coverage maps and advertising materials.³⁹⁵

252. In reply, CenturyLink argues that SpeedConnect does not explicitly state that 3 Mbps/768 kbps is offered in every listed census block.³⁹⁶ Based on the evidence before us, we conclude that it is more likely than not that such service is offered. SpeedConnect's certification states that speeds up to 10 Mbps/1 Mbps are offered.³⁹⁷ SpeedConnect's advertising materials further state that packages with the requisite speeds are available.³⁹⁸ Therefore, while SpeedConnect's filing does not expressly state

³⁹¹ Letter from Bret W. Childers, General Manager, Southern Ohio Communication Services, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (SOCS Challenge). Connected Nation reports that SOCS is shown on the most recent broadband data submissions as providing 3 Mbps/768 kbps service in all or part of each listed census block, except one (390017705001058). Connected Nation Reply at 15.

³⁹² SOCS Challenge at 1.

³⁹³ See, e.g., Letter from John Ogren, Chief Executive Officer, SpeedConnect, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (SpeedConnect Challenge). SpeedConnect also challenges 15 census blocks that no price cap carrier elected to serve. Connected Nation notes that SpeedConnect did not submit information in the most recent round of broadband data submissions. Connected Nation Reply at 16-17. While we take this information into consideration, we also recognize that part of the purpose of the challenge process is to demonstrate that broadband service is available in certain areas that the National Broadband Map incorrectly shows as unserved.

³⁹⁴ See, e.g., SpeedConnect Challenge at 1-2.

³⁹⁵ *Id.* at Exhs. B, D.

³⁹⁶ CenturyLink Reply at 27-28.

³⁹⁷ SpeedConnect Challenge at 1-2.

³⁹⁸ *Id.* at Exh. D.

it offers the requisite speeds in each census block, the totality of its submitted evidence leads us to conclude that it is more likely than not that such speeds are offered.

253. CenturyLink also argues that redaction of customer information makes responding to the challenge impossible.³⁹⁹ As discussed above, such redactions do not invalidate a challenge.⁴⁰⁰ CenturyLink also contends that the maps submitted by SpeedConnect are illegible.⁴⁰¹ While the maps are of limited evidentiary value, they do provide some evidence of the general locations where SpeedConnect offers service.

254. In its response, Windstream offers the same arguments as CenturyLink (no specific statement of 3 Mbps/768 kbps service, lack of legible maps, no customer records).⁴⁰² We reject these arguments for the same reasons we reject CenturyLink's.

255. Frontier did not respond to SpeedConnect's challenge.

256. Therefore, we grant SpeedConnect's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

257. *SuddenLink Communications.* SuddenLink Communications (SuddenLink) challenges 462 census blocks elected by AT&T (4 blocks), CenturyLink (293 blocks), Frontier (one block), and Windstream (164 blocks).⁴⁰³ One hundred eighteen of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, SuddenLink submits a certification from its vice president of government relations and senior counsel stating that SuddenLink "offers fixed broadband Internet access service of at least 3 Mbps downstream/768 kbps upstream to current and prospective customers in the census blocks listed."⁴⁰⁴ SuddenLink also provides a list of redacted addresses for one served or serviceable customer in each census block.⁴⁰⁵

258. In reply, AT&T, CenturyLink, and Windstream all make one or more of the following arguments: SuddenLink's certification is not expressly from an officer of the company, SuddenLink refers to locations as being "serviceable" rather than actually served, and it files information confidentially.⁴⁰⁶

259. Frontier did not respond to SuddenLink's challenge.

³⁹⁹ CenturyLink Reply at 28.

⁴⁰⁰ In evaluating this challenge, SpeedConnect's claim of available customer records was treated the same as a mere statement that customer records exist for some number of the challenged census blocks.

⁴⁰¹ *Id.*

⁴⁰² Windstream Reply at 57-58.

⁴⁰³ Letter from K.C. Halm, Counsel for SuddenLink Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (SuddenLink Challenge). For census blocks in Ohio and Texas, Connected Nation reports that the most recent data submitted by SuddenLink shows some blocks as served and some blocks as unserved by SuddenLink. Connected Nation Reply at 22. We consider this information in combination with SuddenLink's more recent certification that it is providing service to all the census blocks in question.

⁴⁰⁴ SuddenLink Challenge at Attach. 1.

⁴⁰⁵ *Id.* at Attach. 2.

⁴⁰⁶ AT&T Reply at Attach.; CenturyLink Reply at 29; Windstream Reply at 58-60.

260. Consistent with the framework discussed above, we grant SuddenLink's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

261. *TDS Baja Broadband.* TDS Baja Broadband (TDS) challenges 113 census blocks elected by Windstream.⁴⁰⁷ One hundred seven of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, TDS submits a certification from its vice president attesting that TDS is offering broadband in excess of the required speeds.⁴⁰⁸ TDS also provides a list of serviceable addresses in the census blocks, along with redacted billing statements for existing customers.⁴⁰⁹

262. In reply, Windstream argues that TDS's certification is not explicitly from an officer of the company and not made under penalty of perjury.⁴¹⁰ Windstream also contends that TDS merely states that locations are serviceable rather than actually served, and thus falls short of the requirements for excluding an area from Phase I support.⁴¹¹

263. Consistent with the framework discussed above, we grant TDS's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. According to TDS's certification, it is offering service; the fact that it provides a list of "serviceable" addresses along with actual billing statements further supports that certification. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

264. *Texas Communications of Bryan.* Texas Communications of Bryan challenges 32 census blocks elected by CenturyLink (3 blocks) and Windstream (29 blocks).⁴¹² Two of these census blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, Texas Communications of Bryan submits a certification from its vice president stating that it "provides Internet Service at speeds of at least 3 Mbps/768 kbps or higher to customers in census block groups listed."⁴¹³ Texas Communications of Bryan also provides a coverage map and customer billing statements for the pertinent census blocks.⁴¹⁴

⁴⁰⁷ Letter from Andrew S. Petersen, Vice President of External Affairs and Communications, TDS Telecommunications Corp., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 25, 2013). TDS Baja Broadband is a competitive affiliate of a rate-of-return carrier, TDS Telecommunications Corp. Because these census blocks are served by the competitive affiliate, they are treated as served regardless of whether they fall within the territory of the rate-of-return company.

⁴⁰⁸ *Id.* at Attach. B.

⁴⁰⁹ *Id.* at Attachs. C, D.

⁴¹⁰ Windstream Reply at 60-61.

⁴¹¹ *Id.*

⁴¹² Letter from Bryan S. Sewell, Texas Communications of Bryan, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (Texas Communications of Bryan Challenge).

⁴¹³ *Id.* at Attach. 1.

⁴¹⁴ *Id.* at Attachs. 3, 4.

265. In reply, CenturyLink argues that the submitted certification does not explicitly state that it offers fixed service.⁴¹⁵ However, as CenturyLink notes in its own filing, Texas Communications of Bryan states in its cover letter that it is a fixed wireless broadband provider.⁴¹⁶ CenturyLink also argues that none of the provided billing statements relate to the census blocks elected by CenturyLink.⁴¹⁷

266. Windstream also responds to Texas Communications of Bryan's challenge.⁴¹⁸ Windstream argues that Texas Communications of Bryan fails to submit sufficient evidence to support its challenge, noting that to the extent the submitted maps are used to inform the National Broadband Map, Texas Communications of Bryan is making a circular argument (i.e., using the National Broadband Map to make an argument regarding changes to the National Broadband Map).⁴¹⁹ This argument falls short in two regards. First, Texas Communications of Bryan submits evidence other than its coverage maps: specifically, a certification from its vice president. Second, only two of the sixteen blocks that Texas Communications of Bryan is challenging were initially challenged by Windstream (i.e., Windstream arguing that the National Broadband Map is incorrect). Thus, Texas Communications of Bryan is not merely, as Windstream contends, using the National Broadband Map to argue against changes in the National Broadband Map.

267. Windstream also argues that the billing statements are of no evidentiary value because the statements do not list the census blocks they relate to or the speeds provided.⁴²⁰

268. Weighing the arguments of the price cap carriers against the evidence submitted by Texas Communications of Bryan, we find in favor of Texas Communications of Bryan. We base our decision on the certification and coverage map submitted by Texas Communications of Bryan and do not rely on the billing statements. Therefore, we grant Texas Communications of Bryan's challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

269. *Texas Communications of San Angelo.* Texas Communications of San Angelo challenges a census tract.⁴²¹ This census tract encompasses 26 census blocks elected by Windstream, three of which are shown as served on the National Broadband Map that Windstream initially challenged based on a lack of porting evidence.⁴²² While Texas Communications of San Angelo's filing using the

⁴¹⁵ CenturyLink Reply at 22-23.

⁴¹⁶ *Id.* at 23; Texas Communications of Bryan Challenge at 1.

⁴¹⁷ CenturyLink Reply at 23.

⁴¹⁸ Windstream Reply at 61-62.

⁴¹⁹ *Id.* at 61.

⁴²⁰ *Id.* at 61-62. The billing statements include latitude and longitude coordinates for the service location, and it is simple enough to derive the census block from that information using publicly available tools. The census blocks in question are 480410020111017, 483959603003112, 481851803013037. These census blocks were determined using the Commission's publicly available Census Block Conversions API. Census Block Conversion API, Federal Communications Commission, <http://www.fcc.gov/developers/census-block-conversions-api> (last visited Jan. 6, 2014).

⁴²¹ Letter from Buz Wojtek, Vice President of Operations, Texas Communications of San Angelo, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013) (Texas Communications of San Angelo Challenge).

⁴²² Connected Nation data show that Texas Communications of San Angelo entirely or partially serves each of these 26 census blocks. Connected Nation Reply at 18.

terms “census block” and “census tract” interchangeably, we will assume it meant to refer consistently to census tract. In support of its challenge, Texas Communications of San Angelo states in a certification that “it provides Terrestrial Wireless Broadband in the [census tract] with download speeds in excess of 3 Mbps and upload speeds in excess of 768 kbps.”⁴²³ The filing also includes advertising materials showing offerings of the necessary speeds and a billing statement for a customer subscribing to the necessary speed.⁴²⁴

270. In reply, Windstream argues that Texas Communications of San Angelo has not provided sufficient evidence to support its challenge.⁴²⁵ Windstream contends that the advertising materials do not expressly state that the level of service is offered in the contested blocks, and due to redaction, it is impossible to verify that the bill is for a disputed census block. We conclude, however, that Texas Communications of San Angelo’s certification is sufficient to support its challenge. Furthermore, Texas Communications of San Angelo’s filing states that the advertising materials are for service offered in the disputed blocks.⁴²⁶ While the exact address service is redacted, the city and ZIP code indicate that service is provided in the general area of the disputed blocks, lending some evidentiary weight to the submission. Weighing Windstream’s arguments and porting evidence against Texas Communications of San Angelo’s filing, we find in favor of Texas Communications of San Angelo.

271. Therefore, we grant Texas Communications of San Angelo’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

272. *Time Warner Cable.* Time Warner Cable (TWC) challenges 2,605 census blocks elected by AT&T (3 blocks), CenturyLink (9 blocks), FairPoint (45 blocks), Frontier (181 blocks), and Windstream (2,367 blocks).⁴²⁷ Two thousand two hundred fifty six of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream and Frontier. Windstream initially challenged 2,254 of these blocks based on evidence of lack of porting. Frontier challenged two of these census blocks based on evidence that another provider fails to offer the requisite speeds.⁴²⁸ In support of its challenge, TWC provides a certification from a third party explaining the process for determining the challenged blocks, along with a certification from its vice president and chief counsel that TWC is capable of providing the requisite speeds in the challenged census blocks.⁴²⁹

273. In reply, CenturyLink argues that TWC only partially serves some of the blocks in question.⁴³⁰ For these blocks, we grant TWC’s challenge, as the National Broadband Map should show

⁴²³ Texas Communications of San Angelo Challenge at 2.

⁴²⁴ *Id.* at 3-4.

⁴²⁵ Windstream Reply at 62.

⁴²⁶ Texas Communications of San Angelo Challenge at 2.

⁴²⁷ Comments of Time Warner Cable, WC Docket No. 10-90 (filed Sept. 27, 2013) (TWC Challenge). TWC also challenges two census blocks elected by no carrier. For challenges in Ohio, South Carolina, and Texas, Connected Nation reports that TWC’s broadband data submissions generally support its claims that it serves the census blocks in question. *See* Connected Nation Reply at 18-19.

⁴²⁸ As Frontier’s initial challenge of these two census blocks relates to a provider other than TWC, we will ignore it for purposes of TWC’s challenge.

⁴²⁹ TWC Challenge at Attachs. 3, 4.

⁴³⁰ CenturyLink Reply at 23-24.

partially served blocks as served. However, we reiterate the standard exception that, for census blocks that the National Broadband Map's underlying data show as partially served, the price cap carrier may build to the unserved portions of the block.⁴³¹

274. Frontier argues that certification explaining the process for determining challenges is not from an officer of the company and should be disregarded.⁴³² Frontier also argues that TWC uses language referring to locations being "serviceable" rather than "served."⁴³³

275. Windstream similarly argues that the certifications are not expressly from officers of the company.⁴³⁴ Windstream also argues that the "serviceable" locations may require customers to pay high line extension fees to actually receive service.⁴³⁵ Windstream further argues that TWC has stated that it has customer counts and address data available for some of the challenged blocks, but TWC has not provided that information.⁴³⁶ As noted above, however, redaction is not fatal to a challenge. The Bureau is not giving any undue weight to data that is not publicly available. Instead, the Bureau merely treats this as a statement that such records exist.

276. Windstream also notes that it performed an analysis by processing addresses through TWC's customer service website. Every address in two census blocks returned messages that service was not available.⁴³⁷ For these two blocks, we grant Windstream's challenge. For an additional 115 blocks, Windstream states that the website returns a message that an online order cannot be processed, and that the prospective customer should contact TWC customer service.⁴³⁸ We conclude that this extra step of contacting customer service does not establish that service is not offered; it merely means the prospective customer cannot order service online. Windstream further argues that for these 115 blocks, TWC's website does not clearly state that the requisite speeds are offered.⁴³⁹ However, this argument is unpersuasive in light of TWC's certified statement that it offers speeds at or above 20 Mbps/2 Mbps throughout its entire network.⁴⁴⁰

277. AT&T and FairPoint did not respond to TWC's challenge.

278. Weighing the price cap carrier's initial challenges and responses against the evidence submitted by TWC, we find in favor of TWC with the exception of the two census blocks identified by Windstream where TWC's website reports that service is not available. Based on the evidence before us, we conclude that it is more likely than not that those two census blocks (370370206002088 and 390070011011033) are unserved by TWC. Those two census blocks will be treated as unserved by TWC for purposes of the second round of Connect America Phase I and therefore eligible for support. For the remaining 2,603 census blocks, we grant TWC's challenge. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be

⁴³¹ See *Second Order on Reconsideration*, 27 FCC Rcd at 4651, paras. 10-11.

⁴³² Frontier Reply at 8.

⁴³³ *Id.*

⁴³⁴ Windstream Reply at 63.

⁴³⁵ *Id.* at 63-65.

⁴³⁶ *Id.* at 65.

⁴³⁷ *Id.* at 64.

⁴³⁸ *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ TWC Challenge at Attach. 4.

treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for support.⁴⁴¹

279. *Troy Cablevision.* Troy Cablevision challenges 13 census blocks elected by CenturyLink.⁴⁴² In support of its challenge, Troy Cablevision submits an affidavit from its chief financial officer stating “Troy Cablevision, Inc. offers 3 Mbps/768 kbps or greater Internet service to customers in the census blocks referenced.”⁴⁴³ Troy Cablevision also provides redacted customer bills,⁴⁴⁴ a listing of service tiers,⁴⁴⁵ service area maps,⁴⁴⁶ and BTOP fiber deployment maps.⁴⁴⁷

280. In reply, CenturyLink raises several arguments.⁴⁴⁸ First, CenturyLink notes that the bills provided by Troy Cablevision are for areas outside of the challenged census blocks.⁴⁴⁹ Second, CenturyLink suggests that three census blocks that received a BTOP grant should be eligible because that funding was not for last mile facilities.⁴⁵⁰ However, Troy Cablevision states in its filing that while “current homes passed cannot access the network, Troy Cable anticipates spending non-federal funds in 1st Q 2014 to connect homes passed which were not an allowable expense under the BTOP Grant.”⁴⁵¹ We view this statement as sufficient to establish that homes will be served in the area of a BTOP project; the Commission did not specifically mandate that BTOP funding be used for the last mile facility.

281. Therefore, we grant Troy Cablevision’s challenge for the thirteen census blocks. Based on the evidence before us, we find it more likely than not that the blocks in question are served by

⁴⁴¹ We note that TWC filed a rebuttal to the replies of the price cap carriers. Letter from Terri B. Natoli, Time Warner Cable, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Dec. 5, 2013). Given how we address most of the price cap carriers’ arguments against TWC, there is no need to address the majority of the letter. However, TWC argues that we should reject Windstream’s argument that TWC’s website reported that service was unavailable to every address in two census blocks. *Id.* at 3. TWC argues that the website is not “intended or able to provide a comprehensive account of every specific location where TWC’s services are available” and that “it cannot process any inputted address that varies in any way from the format in TWC’s billing system.” *Id.* Despite this, we conclude that a provider’s website reporting that service is unavailable is strong evidence that service is not offered in an area. Consumers living in those census blocks would likely conclude, after visiting the website, that TWC was either unable or unwilling to provide broadband service to their homes.

⁴⁴² Letter from William H. Freeman, President, Troy Cablevision, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 30, 2013) (Troy Cablevision Challenge). Troy Cablevision also challenges one census block that was not elected by any carrier (011091893004023).

⁴⁴³ *Id.* at App. B.

⁴⁴⁴ *Id.* at App. C.

⁴⁴⁵ *Id.* at App. D.

⁴⁴⁶ *Id.* at App. E.

⁴⁴⁷ *Id.* at App. F.

⁴⁴⁸ CenturyLink Reply at 38-39.

⁴⁴⁹ *Id.*

⁴⁵⁰ *Id.* at 38.

⁴⁵¹ Troy Cablevision Challenge at App. E.

broadband or are within an area of a BTOP project. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.⁴⁵²

282. *TruVista Communications*. TruVista Communications challenges 87 census blocks elected by Windstream.⁴⁵³ These blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. In support of its challenge, TruVista Communications provides a certification from its vice president of administration and regulatory affairs stating that all its submissions are accurate, including a statement that “TruVista already has in place facilities capable of providing broadband service to challenged census blocks at a download speed of at least 15 Mbps and an upload speed of at least 2 Mbps.”⁴⁵⁴ TruVista Communications also provides maps of its existing plant, along with a list of speeds that customers in the challenged census blocks subscribe to.⁴⁵⁵

283. In reply, Windstream argues that the provided maps do not clearly identify the challenged census blocks, nor do they provide an explanation of markings on the map.⁴⁵⁶ However, all census blocks are listed on the maps, so it is possible to cross reference the map with TruVista Communications’ challenge. The lack of an explanation of the markings appears to be due to the files being uploaded into ECFS, which removed the layer descriptions from the file.⁴⁵⁷ Even lacking this description, the maps, combined with TruVista Communications’ certification, provides some evidence that it serves the areas in question – TruVista Communications’ submission states that it provides maps showing coverage in the disputed blocks and the disputed blocks appear on these maps.

284. Windstream also contests TruVista Communications’ list of customers and speed tiers, noting that full addresses are not provided.⁴⁵⁸ The list, combined with TruVista Communication’s certification, demonstrates that TruVista Communication conducted an analysis in determining that the census blocks are already served by the speeds listed and that customers exist in the challenged blocks.

285. Consistent with the framework discussed above, we grant TruVista Communications’ challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

286. *W.A.T.C.H. TV Co.* W.A.T.C.H. TV Co. d/b/a Watch Communications (Watch) challenges 43 census blocks elected by Windstream.⁴⁵⁹ Two of these blocks are shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence

⁴⁵² We note that Troy Cablevision filed a rebuttal to the reply of CenturyLink. Letter from William H. Freeman, President, Troy Cablevision, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Nov. 21, 2013). We need not consider the rebuttal, given our review of Troy Cablevision’s challenge and CenturyLink’s response.

⁴⁵³ Letter from Thomas T. Harper, Vice President of Administration and Regulatory Affairs, TruVista Communications, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

⁴⁵⁴ *Id.*

⁴⁵⁵ *Id.* at Attachs.

⁴⁵⁶ Windstream Reply at 68.

⁴⁵⁷ Notably, the pink lines indicate exchange boundaries.

⁴⁵⁸ *Id.*

⁴⁵⁹ Letter from Thomas N. Knippen, Vice President and General Manager, W.A.T.C.H. TV Co., to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 20, 2013).

of a lack of porting. In support of its challenge, Watch provides a certification that “Watch is offering fixed wireless Internet Access service utilizing the 2.5 GHz band at speeds in excess of 3 Mbps downstream and 768 kbps upstream to subscribers within the census blocks at issue.”⁴⁶⁰ Watch also submits a listing of its speed tiers, along with redacted customer bills showing service in the disputed census blocks.⁴⁶¹

287. In reply, Windstream argues that none of Watch’s customers actually subscribe to 3 Mbps/768 kbps service, instead opting for lower tier service packages.⁴⁶² This is irrelevant; Watch certifies it is able to provide the necessary speeds, so it does not matter that customers choose to subscribe to lower speeds. Windstream also contends that Watch does not specify how many customers it could support at the level of 3 Mbps/768 kbps.⁴⁶³ But other than a hypothetical example, Windstream provides no evidence to suggest that Watch is not able to provide the necessary speeds to customers in the disputed blocks. Given the evidence submitted by Watch and the arguments made by Windstream, we find in favor of Watch.

288. Therefore, we grant Watch’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

289. *WaveDivision Holdings*. WaveDivision Holdings (WaveDivision) challenges 22 census blocks elected by CenturyLink.⁴⁶⁴ In support of its challenge, WaveDivision supplies a certification from its executive vice president for business and legal affairs stating the WaveDivision “offers fixed broadband Internet access service of at least 3 Mbps downstream/768 kbps upstream to current and prospective customers in the census blocks.”⁴⁶⁵ WaveDivision also provides a redacted list of census blocks indicating the number of homes passed in each of the challenged blocks.⁴⁶⁶

290. In reply, CenturyLink argues that the number of homes passed is redacted from the filing and should not be considered by the Bureau.⁴⁶⁷ CenturyLink also argues that WaveDivision fails to distinguish between census blocks that are served and those that are merely serviceable.⁴⁶⁸

291. Consistent with the framework discussed above, we grant WaveDivision’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

292. *Winnebago Cooperative Telecom Association*. Winnebago Cooperative Telecom Association (Winnebago) challenges six census blocks elected by Windstream.⁴⁶⁹ These blocks are

⁴⁶⁰ *Id.* at 1.

⁴⁶¹ *Id.* at 2-62.

⁴⁶² Windstream Reply at 67.

⁴⁶³ *Id.*

⁴⁶⁴ Letter from K.C. Halm, Counsel for WaveDivision Holdings, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 27, 2013).

⁴⁶⁵ *Id.* at Attach.

⁴⁶⁶ *Id.*

⁴⁶⁷ CenturyLink Reply at 29-30.

⁴⁶⁸ *Id.*

shown as served on the National Broadband Map, but that designation was initially challenged by Windstream based on evidence of a lack of porting. Winnebago supports its challenge with a certification from its general manager stating that “Winnebago offers broadband exceeding 3 Mbps/768 kbps up speeds in the census blocks listed.”⁴⁷⁰

293. In reply, Windstream contests Winnebago’s challenge on two grounds.⁴⁷¹ First, Windstream argues that it is unclear as to what areas Winnebago is providing service as a rate-of-return incumbent carrier and what areas it is providing service as a competitive carrier.⁴⁷² This issue was resolved by an e-mail from Winnebago’s consultant to the Bureau and Windstream, wherein Winnebago confirmed the challenge related solely to its competitive territory.⁴⁷³ Second, Windstream argues that a certification alone is insufficient to support Winnebago’s challenge.⁴⁷⁴

294. Consistent with the framework discussed above, we grant Winnebago’s challenge in its entirety. Based on the evidence before us, we find it more likely than not that the blocks in question are served by broadband. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

295. *WVVA.net*. WVVA.net challenges 380 census blocks elected by Frontier.⁴⁷⁵ In support of its challenge, WVVA.net provides a certification from its president that the disputed census blocks are within its territory, and that service above 3 Mbps/768 kbps is provided to those census block.⁴⁷⁶ WVVA.net notes that it currently serves 97 customers in the listed blocks.⁴⁷⁷ WVVA.net also provides coverage maps showing its service area.⁴⁷⁸

296. Frontier does not reply to WVVA.net’s challenge.

297. Therefore, we grant WVVA.net’s challenge in its entirety. The challenged blocks will be treated as served for the purposes of the second round of Connect America Phase I and therefore ineligible for funding.

D. FUNDING AUTHORIZATIONS

298. USAC is authorized and directed to distribute Connect America Phase I incremental support to the carriers in the amounts specified in Appendix 1 to this Order. For accounting purposes,

(Continued from previous page) _____

⁴⁶⁹ Letter from Mark Thoma, General Manager, Winnebago Cooperative Telecom Association, to the Federal Communications Commission, WC Docket No. 10-90 (filed Sept. 23, 2013) (Winnebago Challenge). Connected Nation confirms that the most recent data submitted by Winnebago shows these census blocks as served. Connected Nation Reply at 19. While this provides some weight to Winnebago’s challenge, it also must be viewed in the context that Windstream is challenging the designation on the National Broadband Map.

⁴⁷⁰ Winnebago Challenge at 1.

⁴⁷¹ Windstream Reply at 67-68.

⁴⁷² *Id.*

⁴⁷³ *See* Letter to the Record.

⁴⁷⁴ Windstream Reply at 68.

⁴⁷⁵ Opposition of WVVA.net, WC Docket No. 10-90 (filed Sept. 27, 2013).

⁴⁷⁶ *Id.* at 1, 14.

⁴⁷⁷ *Id.* at 2.

⁴⁷⁸ *Id.* at 2-14.

disbursements are listed by operating company. However, the holding level company is free to redistribute these funds among its operating companies, so long as the holding company ultimately states in its annual reports where the funds were spent.⁴⁷⁹

299. AT&T, Frontier, and Windstream conditionally accepted funding when they made their initial elections. To the extent they now wish to modify their prior acceptances in light of our resolution of the challenges in this Order,⁴⁸⁰ they must identify the number of locations and specific census blocks within 45 days of the release of this Order. In order to bring this second round of Phase I to a close, modifications are only permitted to census blocks that were previously elected. Upon the expiration of the 45-day period, the Bureau will finalize the amount of unclaimed Phase I support that will be added to the budget for Phase II.⁴⁸¹ To the extent any of these carriers rescind prior elections, USAC shall promptly reclaim those disbursements.

IV. ORDERING CLAUSE

300. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 4(i), 4(j), 5, 214, and 254 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 154(i), 154(j), 155, 214, 254, 1302, sections 0.91, 0.291, and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, and the authority delegated to the Wireline Competition Bureau by the Commission in the *Phase I Order*, 28 FCC Rcd 7766 (2013), that this Order IS ADOPTED, effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Chief
Wireline Competition Bureau

⁴⁷⁹ 47 C.F.R. § 54.313(b)(2)(ii).

⁴⁸⁰ *Phase I Order*, 28 FCC Rcd at 7777-78, para. 31.

⁴⁸¹ *Id.* at 7769-70, para. 9.

APPENDIX 1

Connect America Phase I Round Two Authorized Amounts¹

<u>Study Area</u>	<u>Study Area Code</u>	<u>Authorized Amount</u>
BellSouth Telecommunications, LLC (AT&T)	255181	\$10,075.00
UNITED TELEPHONE OF NEW JERSEY, INC. (CenturyLink)	160138	\$296.40
UNITED TELEPHONE OF PENNSYLVANIA (CenturyLink)	170209	\$133.38
CENTRAL TEL. CO. OF VIRGINIA (CenturyLink)	190254	\$23,208.88
UNITED TELEPHONE - SOUTHEAST, INC – VIRGINIA (CenturyLink)	190567	\$3,027.33
United of Florida (CenturyLink)	210341	\$11,750.73
CAROLINA TELEPHONE AND TELEGRAPH, LLC (CenturyLink)	230470	\$7,670.28
CENTRAL TEL. CO. OF NC (CenturyLink)	230471	\$427.76
UNITED TEL. CO. OF THE CAROLINAS-SO. CAROLINA (CenturyLink)	240506	\$4,569.29
Gulf Telephone Company (CenturyLink)	250298	\$390.71
CenturyTel of Southern Alabama	259788	\$10,345.07
CenturyTel of Northern Alabama	259789	\$12,221.83
CenturyTel of Central Louisiana, LLC	270423	\$2,029.67
CenturyTel of Southeast Louisiana, LLC	270424	\$232.18
CenturyTel of Northwest Louisiana, Inc.	270431	\$197.60
CenturyTel of Evangeline, LLC	270434	\$8,261.96
CenturyTel of North Louisiana, LLC	270436	\$1,036.51
CenturyTel of Southwest Louisiana, LLC	270442	\$3,296.12
CenturyTel of North Mississippi, Inc.	280458	\$1,795.25
CenturyTel of Adamsville, Inc.	290552	\$69.16
CenturyTel of Claiborne, Inc.	290557	\$2,218.29
UNITED TELEPHONE - SOUTHEAST, INC – TENNESSEE (CenturyLink)	290567	\$2,702.19
UNITED TELEPHONE CO. OF OHIO (CenturyLink)	300661	\$5,055.21
CenturyTel of Upper Michigan, Inc.	310689	\$20.88
CenturyTel of Michigan, Inc.	310742	\$239.20

¹ These operating companies and funding amounts are provided for USAC in order to distribute funding. These allotments do not indicate the geographic areas where funds will actually be used to deploy broadband capable infrastructure.

UNITED TELEPHONE CO. OF INDIANA, INC. (CenturyLink)	320832	\$674.09
CenturyTel of the Midwest-Wisconsin (Cencom)	330841	\$2,047.41
CenturyTel of Forestville, LLC	330884	\$978.12
CenturyTel of Wisconsin, LLC	330895	\$414.96
CenturyTel of Monroe County, LLC	330913	\$742.13
CenturyTel of the Midwest-Wisconsin	330922	\$5,255.73
CenturyTel of the Midwest-Kendall, LLC	330924	\$3,695.13
CenturyTel of Southern Wisconsin, LLC	330931	\$1,444.51
CenturyTel of Northwest Wisconsin, LLC	330950	\$22,019.91
CenturyTel of Northern Wisconsin, LLC	330956	\$10,407.27
CenturyTel of the Midwest-Wisconsin (Wayside)	330970	\$780.52
Telephone USA of Wisconsin, LLC (CenturyLink)	331155	\$7,744.83
CenturyTel of Central Wisconsin, LLC	331159	\$6,082.51
CenturyTel of Minnesota, Inc.	361445	\$1,591.81
EMBARQ – MINNESOTA (CenturyLink)	361456	\$3,351.13
CenturyTel of Russellville	401142	\$24,224.28
CenturyTel of Siloam Springs	401143	\$582.92
CenturyTel of Central Ark, LLC	401144	\$2,977.48
CenturyTel of Arkansas, Inc.	401705	\$743.02
CenturyTel of Mountain Home, Inc.	401711	\$2,242.77
CenturyTel of South Arkansas, Inc.	401727	\$138.32
UNITED TELEPHONE CO. - EASTERN & SO. CENTRAL KANSAS (CenturyLink)	411317	\$955.00
UNITED TELEPHONE CO. - EASTERN & SO. CENTRAL KANSAS (CenturyLink)	411842	\$41.77
Spectra Communications Group, LLC (CenturyLink)	421151	\$2,774.49
EMBARQ MISSOURI, INC (CenturyLink)	421957	\$8,016.75
CenturyTel of Southern Missouri	429786	\$3,156.67
CenturyTel of Southwest Missouri	429787	\$3,859.50
UNITED TELEPHONE CO. OF TEXAS, INC. (CenturyLink)	442084	\$2,529.74
CENTRAL TELEPHONE CO. OF TEXAS (CenturyLink)	442114	\$1,579.68
AZ Qwest (CenturyLink)	455101	\$209,317.60
CenturyTel of Eagle, Inc.	462185	\$29,766.09
CenturyTel of Montana, Inc.	482249	\$127.54
CenturyTel of the Southwest (New Mexico)	492274	\$758.74
UNITED TELEPHONE CO. OF THE WEST – WYOMING (CenturyLink)	511595	\$69.16
CenturyTel of Wyoming, Inc.	512299	\$64.22

UNITED TELEPHONE CO. OF THE NORTHWEST – WA (CenturyLink)	522400	\$1,706.10
CenturyTel of Washington, Inc.	522408	\$11,204.64
CenturyTel of Oregon, Inc.	532361	\$9,556.69
UNITED TELEPHONE CO. OF THE NORTHWEST – OR (CenturyLink)	532400	\$1,121.38
CENTRAL TELEPHONE CO. – NEVADA (CenturyLink)	552348	\$167.13
Frontier West Virginia Inc.	205050	\$3,748,250.00
Windstream Alabama, LLC	250302	\$259,777.79
Windstream Arkansas, LLC	401691	\$1,044,267.93
Windstream Florida, Inc.	210336	\$262,971.89
Windstream Georgia, LLC	220357	\$505,389.81
Windstream Georgia Communications, LLC	223037	\$1,683,464.67
Georgia Windstream, LLC	223036	\$955,128.63
Windstream Accucomm Telecommunications, LLC	220395	\$82,882.72
Windstream Georgia Telephone, LLC	220364	\$14,686.41
Windstream Iowa Communications, Inc.	351178	\$179,799.59
Windstream Iowa Communications, Inc.	351167	\$216,291.85
Windstream Iowa Communications, Inc.	351170	\$272,217.80
Windstream Kentucky East, LLC	269690	\$730,869.09
Windstream Kentucky East, LLC	269691	\$210,087.93
Windstream Kentucky West, LLC	260402	\$160,231.35
Windstream Missouri, Inc.	421885	\$475,452.47
Windstream Mississippi, LLC	280453	\$364,402.02
Windstream North Carolina, LLC	230476	\$1,816,043.10
Windstream Concord Telephone, Inc	230474	\$13,086.44
Windstream Nebraska, Inc.	371568	\$168,509.10
Valor Telecommunications of New Mexico, LLC (Windstream)	491164	\$227,219.64
Windstream New York, Inc.	150109	\$247,565.93
Windstream New York, Inc.	150106	\$229,735.14
Windstream Western Reserve, Inc	300666	\$232,648.44
Windstream Ohio, Inc.	300665	\$118,889.44
Valor Telecommunications of Oklahoma, LLC (Windstream)	431165	\$165,227.25
Windstream Oklahoma, LLC	431965	\$41,075.74
Oklahoma Windstream, LLC	432011	\$119,910.27
Windstream Pennsylvania, LLC	170176	\$1,005,151.94
Windstream South Carolina, LLC	240517	\$300,707.28
Windstream Telecommunications of Texas, L.P. (Windstream)	442163	\$1,828,879.96

Windstream Sugar Land, Inc	442147	\$906.75
Windstream Communications Kerrville, LLC	442097	\$71,861.33

APPENDIX 2

Summary of Funding and Obligations

<u>Carrier</u>	<u>Funding Authorized</u>	<u>\$775 Locations¹</u>	<u>\$550 Locations²</u>
AT&T	\$10,075	13	0
CenturyLink	\$486,150	474	216
FairPoint	\$0	0	0
Frontier	\$3,748,250	0	6,815
Windstream	\$14,501,350	362	25,856
Total	\$18,745,825	849	32,887

¹ Number of locations lacking 768 kbps/200 kbps Internet service access that must be deployed to.

² Number of locations having 768 kbps/200 kbps Internet service access, but lacking 3 Mbps/768 kbps Internet service access, that must be deployed to.