

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	Docket No. 10-208
)	
Petition for Waiver of U.S. Senator Joe)	
Manchin III to Participate in Mobility)	
Fund Phase II Challenge Process)	

To: The Commission

**PETITION OF UNITED STATES SENATOR JOE MANCHIN III
FOR WAIVER TO PARTICIPATE IN CHALLENGE PROCESS**

I, United States Senator Joe Manchin III, respectfully seek a waiver to participate in the Mobility Fund Phase II (“MF-II”) challenge process. I am neither an explicitly authorized governmental entity nor a carrier required to file Form 477 data with the Commission; as such, I am not entitled to participate in the challenge process as a matter of right. In adopting the rule governing the challenge eligibility, however, the Commission stated that it “anticipate[s] granting waivers in cases in which an individual, organization, or business demonstrates a bona fide interest in the challenge process and a plausible ability to submit a valid challenge.”¹ As shown below, I meet these criteria.

I have a bona fide interest in the challenge process. As the Senior Senator from West Virginia, I am honored to have helped lead the effort to make MF-II a reality and believe that my long record of engagement on the issue demonstrates a clear bona fide interest in the challenge process. Over the past three years, I have repeatedly urged the FCC to make MF-II a priority by leading multiple bipartisan letters on the matter with over twenty of my Senate colleagues, hosting then-FCC Chairman Tom Wheeler in West Virginia in the summer of 2016, and personally meeting with Chairman Pai and my friend Roger Wicker (R-MS) in early 2017 to ensure that MF-II eligible areas were determined through a robust, reliable and standardized data collection and challenge process.

¹ Connect America Fund; Universal Service Reform – Mobility Fund, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282, 6304 n. 119 (2017).

In addition to my longstanding personal involvement in the MF-II proceeding, I can also demonstrate a bona fide interest in making sure the official broadband coverage maps accurately reflect the coverage available to consumers on the ground. The recently passed Fiscal Year 2018 omnibus spending bill (P.L. 115-141) included specific language I authored that requires the FCC to standardize its collection of wireless coverage data and ensure it is collected in a consistent manner. My intent when drafting this legislation was to codify a process similar to the approach adopted by the FCC in compiling the Initial Eligible Areas Map. Without this waiver, I cannot access the Universal Service Administrative Company (USAC) challenge process portal to see the data provided through that process or understand the additional barriers to participation that may keep state and local governments from playing an active role in the challenge process. Because of my extensive personal involvement in this process, I do not believe that my interests can be met through a separate state, local or tribal government entity.

I have a plausible ability to submit a valid challenge. I have the authority to provide mobile broadband service to members of my staff whose responsibilities require frequent travel throughout West Virginia. I also have the discretion, within certain constraints, to select the mobile broadband provider and specific devices or handsets that allow my office to best serve the people of West Virginia. While it is impossible for me to view specific provider coverage data or the list of approved handsets without access to the USAC challenge process portal, I can demonstrate my existing authority as a Member of Congress to purchase an appropriate service plan from each unsubsidized service provider in the areas I wish to challenge and submit detailed proof of lack of unsubsidized, qualified 4G LTE coverage through application-based tests conducted between the hours of 6:00 AM and 12:00 AM local time and in accordance with all other requirements.

As a lifelong resident of West Virginia and proud public servant who tries to visit every county in the state at least once each year, I have extensive actual knowledge of the accuracy of the underlying data. I have driven nearly every mile of road in the Mountain State and experienced first-hand the loss of broadband coverage along the way. Consistent with rules already in place for challengers that are government entities and do not have a qualified engineer

available to certify their data, I request the ability to personally certify the challenge data on behalf of my office due to my extensive actual knowledge of the accuracy of the underlying data.

Additional information. The Commission requires waiver applicants to “submit the first and last name of the user(s) that should have access to the portal on its behalf, and the email address(es) of the user(s), up to a maximum of three users, as part of its petition for waiver.”² I provide the following information regarding the users that should have access to the challenge process portal on my behalf:

Wes Kungel (Wes_Kungel@manchin.senate.gov)

Ryan Thorn (Ryan_Thorn@manchin.senate.gov)

Brian Aluise (Brian_Aluise@manchin.senate.gov)

For all of these reasons, I respectfully request a waiver to participate in the MF-II challenge process.

Sincerely,



Joe Manchin III
United States Senator

900 Pennsylvania Avenue, Suite 629
Charleston, WV 25302
(304) 342-5855

May 15, 2018

Submitted via email to mf2challengeprocess@fcc.gov

² Mobility Fund Phase II Challenge Process Handsets and Access Procedures for the Challenge Process Portal, Public Notice, 32 FCC Rcd 10372, 10376 (Rural Broadband Auctions Task Force 2017).