



Federal Communications Commission
Office of Legislative Affairs
Washington, D.C. 20554

Office of the Director

August 31, 2018

The Honorable Marsha Blackburn
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Blackburn:

Enclosed please find responses to Questions for the Record submitted for Chairman Ajit Pai regarding his appearance before the Subcommittee on Communications and Technology on July 25, 2018, at the hearing entitled "Oversight of the Federal Communications Commission."

If you have further questions, please contact me at (202) 418-2242.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy B. Strachan", written over a horizontal line.

Timothy B. Strachan
Director

Attachment—Additional Questions for the Record

The Honorable Greg Walden

1. Our colleague Congressman Tom Cole, who chairs the House Appropriations Subcommittee on Labor, HHS, and Education, sent you a letter recently asking for your assurance that transitioning C-Band frequencies for wireless services would not degrade or impair public radio's programming distribution and public safety function.

As you know, public radio relies on C-Band frequencies to distribute 450,000 hours of programming annually, 80 percent of which is live, to 42 million Americans each week—including in rural and remote areas where citizens rely on their local public radio station because there are few or no alternative sources of news and emergency information. Will you please provide Congressman Cole and our Committee with your plan to protect public radio's satellite-based programming distribution and public safety activities while making more intensive use of the band?

Response: I agree with you on the importance of protecting broadcast and cable earth stations as we increase terrestrial use of the 3.7-4.2 GHz band, commonly called the C-band. At this time, the Commission is collecting data from incumbent earth stations and public radio stations in order to have an accurate picture of how the spectrum is currently being used. Without this information, we will have no way to protect public broadcasters that currently use earth stations to access programming. Because we have not yet collected all the information we need, we have not yet decided on a specific plan to protect public radio's satellite-based programming distribution and public safety activities, but please be assured that protecting these functions is a priority for us as we make more intensive use of the band.

2. Since the oversight hearing, you announced a circulation order to extend the Mobility Fund Phase II challenge process by an additional 90 days. With \$4.53 billion at stake to support 4G LTE service in unserved areas, how can you assure the Committee the extended challenge process will be sufficient to update the map with more reliable data to determine eligible areas?

Response: As you know, the Commission's legacy support for mobile services has been poorly targeted. All too often, it has supported buildout in areas where private capital has already invested and provided duplicative support to more than one carrier in the same area, while leaving states like Oregon with less funding than they need to ensure universal service. The Mobility Fund Phase II auction will redirect funding to unserved areas—like Eastern Oregon—helping us fulfill our goal to bring digital opportunity to all Americans. I am pleased that the Commission voted recently to extend the challenge process for an additional 90 days. Based on the record, this additional 90 days should ensure that stakeholders have adequate time to challenge the maps submitted by mobile providers while ensuring that we're able to move forward with the auction in a timely manner.

The Honorable Marsha Blackburn

1. Chairman Pai: I understand the FCC has taken a number of actions to stop unwanted calls from reaching consumers and is looking into this issue through a variety of pending rulemakings. This is another example of the FCC and FTC working together, and I commend all of you for that. Can you give us an update on when we might see additional steps taken from the rulemakings that are currently pending before the FCC?

Response: Unwanted robocalls are consumers' top complaint to the FCC, and we have accordingly made combating illegal robocalls our top consumer protection priority. We have aggressively enforced the TCPA as well as the Truth in Caller ID Act, leveling \$120 million of fines and proposing more than \$82 million in fines, respectively, against two robocallers who engaged in illegal spoofing on a massive scale. We have authorized carriers to stop certain robocalls at the source while we pursue the creation of a reassigned numbers database and a robust call-authentication framework. And we have been working with our colleagues at the Federal Trade Commission, hosting a policy forum in March and a tech expo in April.

We will continue our work this fall to combat unwanted robocalls. We are currently studying the record in response to our open rulemakings regarding a reassigned numbers database and additional opportunities for carriers to block illegal robocalls. In addition, we are closing loopholes in our rules that allow robocallers to profit through regulatory arbitrage (e.g., with toll-free calls), and we are working with carriers to implement a call-authentication framework by next year so that consumers can once again trust Caller ID. Finally, we are studying the record in response to the March decision by the U.S. Court of Appeals for the District of Columbia in *ACA International v. FCC*, which struck down much of the agency's 2015 interpretation of the Telephone Consumer Protection Act. I look forward to working with you and my colleagues to continue our crackdown on what former Senator Fritz Hollings once rightfully deemed the "scourge of civilization."

The Honorable John Shimkus

1. I understand that the National Association of Regulatory Utility Commissioners recently passed a resolution raising concerns regarding the implementation of the National Verifier and the absence of Application Programming Interfaces (APIs) that allow for automated interaction between consumers, carriers and the National Verifier when consumers are attempting to enroll in Lifeline with carriers. NARUC is concerned that the absence of these APIs will make it unnecessarily difficult for eligible consumers to enroll. I understand you also have a petition before you asking the FCC to address this. I also understand that the National Lifeline Accountability Database already uses similar APIs. Are you are reconsidering reinstating APIs as part of the National Verifier and whether they should be part of the design, and if so, will you complete any decision-making before “hard launch” of the National Verifier?

Response: As you know, the Commission created the National Verifier in response to widespread waste, fraud, and abuse in the Lifeline program, with the goal of eliminating the role of carriers in verifying the eligibility of consumers. A carrier API could give the very companies that have previously abused the Lifeline program direct access to the National Verifier. In light of the \$137 million in abuse that the Government Accountability Office discovered in the Lifeline program last year, we must be careful in designing any carrier API to mitigate the ability of unscrupulous carriers to evade the screening role of the National Verifier.

As such, we have not made a final decision on whether to include a carrier API in the National Verifier. We continue to study the National Verifier’s functioning to determine whether one is necessary and whether one can be designed without undermining the National Verifier’s work of reducing waste, fraud, and abuse in this important program. In the meantime, carriers are able to work with consumers in person using the National Verifier’s service provider portal.

The Honorable Robert E. Latta

1. What steps have you taken to reduce regulatory burdens for small entities, and what do you have planned for the future?

Response: Federal regulations have a disproportionate effect on small businesses. This is unfortunate in several respects: small businesses are often the linchpin of a more competitive marketplace or are critical to providing access in the first place, and they simply don't have the resources of their larger competitors to comply with complex regulatory schemes. Accordingly, the FCC has taken numerous actions to reduce regulatory burdens on small entities. For example, last year we eliminated the onerous reporting requirements imposed by the last Administration on small Internet service providers in the *Title II Order*, and then later eliminated the regulatory overhang of that same order. Also last year, we eliminated unnecessary reporting burdens on small providers participating in our universal service high-cost programs. In June of this year, we eliminated a rule that penalized small rural carriers with extra Universal Service fees whenever they offered broadband. The Commission also hosted a workshop to help small business entrepreneurs navigate corporate supplier diversity programs. And in August, we launched an incubator program in the radio industry where an established broadcaster will provide financial and operational support, including training and mentoring, to a new or small broadcaster.

And we're not finished yet. For example, we have proposed to eliminate many of the legacy burdens for small, model-based carriers serving businesses in rural America—burdens that unnecessarily divert funding away from build-out of broadband toward paperwork. I look forward to working with you and my colleagues to continue this work.

2. I have over 20 telecommunications companies operating in my district. The majority are small businesses in rural areas that are recipients of USF. I'm concerned that the uncertainty of budget controls in the USF High-Cost program is stifling investment and preventing rural Americans from getting the broadband they deserve. I know the Commission has taken steps to address USF budget shortfalls in some of the programs, but the High-Cost program hasn't had a recent recalibrated budget, or an inflationary factor applied to it. Are you considering addressing the concerns with the High-Cost program in a manner similar to how the FCC has addressed the other USF programs?

Response: I agree with you that the *2016 Rate-of-Return Reform Order* has not lived up to its promise—and some decisions of the prior Administration like the budget control mechanism require revisiting. That's why I led my colleagues earlier this year to increase funding for small carriers and to propose changes to that prior order to respond to its many shortcomings. Later this year, I aim to circulate an order that will boost funding for small companies deploying broadband to rural America, while considering other reforms to ensure that money is spent wisely, and funding is more predictable going forward.

The Honorable Brett Guthrie

1. When it comes to describing the Commission's work within global fora such as the ITU or others, what role do you believe the Commission should play as an influential voice on spectrum policy and connectivity? This could be in relation to other U.S. agencies and foreign policy makers or relative to domestic and foreign stakeholders.

Response: The FCC should play a leading role on spectrum policy and connectivity both here at home and abroad—and it does. We are working within the U.S. to establish a policy environment that encourages the development and deployment of new technologies and high-speed networks for all consumers. And internationally, we are working to harmonize spectrum allocations for next generation terrestrial mobile and satellite services while focusing on connectivity—the core of ITU's mission—to help promote more innovation and greater international unity. To build support for our positions in the ITU, we engage extensively on a bilateral and regional basis—sharing regulatory best practices and encouraging innovative spectrum policies. I personally have participated in numerous multilateral and bilateral meetings and have aggressively promoted various American positions on communications policy with regional representatives like Europe's BEREC and individual countries as varied as the Bahamas and Bahrain.

The Honorable Gus M. Bilirakis

1. The Final National Verifier Plan reviewed by the Commission and released by the Universal Service Administration Company (USAC) in January 2017 included plans to design application programming interfaces (APIs) both between the National Verifier and state eligibility databases, and between the service providers and the National Verifier to facilitate modern machine-to-machine interaction necessary to ensure efficient and effective enrollment processes for eligible Lifeline subscribers.

How does the Commission expect these two verification systems to operate with each-other in order to verify an eligible Lifeline applicant? For example, will the applicant be tasked with providing proof of state eligibility to the service provider upon approval (siloe interfaces) or will the two verification systems interact autonomously to prove who a particular applicant is and their eligibility?

Response: With the National Verifier, carriers do not verify subscriber eligibility and do not retain eligibility documents. The National Verifier is designed to work in an integrated fashion with other databases and has two online methods for obtaining a subscriber eligibility determination: a carrier portal (used when the carrier representative is present with the consumer) and the consumer online portal (used when the consumer is applying without in-person carrier assistance). Consumers also have the option of mailing in a paper application along with their supporting eligibility documents. For consumers who are enrolled through the carrier portal, carriers have immediate access to their customer information and eligibility determination in the National Verifier system. For consumers who are enrolled in the consumer portal or via a paper application, the consumer must first select a specific carrier and give that carrier his information and National Verifier number in order for the carrier to access that consumer's information and eligibility determination in the National Verifier system. Carriers will still need to enter and maintain consumer records separately in their customer relationship management system.

2. As a follow up to your testimony during the hearing on the Telephone Consumer Protection Act (TCPA), does the FCC need any additional authority from Congress in order to adequately address issues related to TCPA and robocalls that could enhance your ability to fight bad actors?

Response: We have found that unlawful robocalling and unlawful spoofing tend to go hand-in-hand. The Truth-in-Caller-ID Act, which governs spoofing violations, does not require the Commission to first issue a citation against non-carriers; we can go directly to a Notice of Apparent Liability. It also provides a two-year statute of limitations. We would welcome legislation that eliminates the citation requirement and provides for a two-year statute of limitations for TCPA actions as well, allowing us to pursue robocalling and spoofing violations in a more coordinated manner.

The Honorable Bill Johnson

1. Earlier this year, 130 members of the House, including many members of this Subcommittee, sent a letter thanking the FCC for providing additional resources in the Universal Service Fund (USF) High-Cost Program for areas served by smaller rural broadband providers.

While we are very thankful that all of you at the FCC helped to address the USF budget shortfalls in the last fiscal year, a new budget cut took effect last month that will reduce USF support on average by 15.5%—or about \$230 million—over the next 12 months. This budget control keeps growing every year, taking more and more USF support away from companies. Companies that elected model USF support are also not able to deliver on what they had hoped to due to funding shortfalls.

It's my understanding that your agency is taking a fresh look at these budget concerns and trying to address sufficiency in the program.

- a. After having made significant positive changes to the budget of the Rural Health Care Program recently, the High-Cost Program is the only USF program without a recently recalibrated budget or an inflationary factor applied to it. Are you considering addressing the concerns with the High-Cost Program in a manner similar to how the FCC has addressed the other USF programs?

Response: I agree with you that the *2016 Rate-of-Return Reform Order* has not lived up to its promise—and some decisions of the prior Administration like the budget control mechanism require revisiting. That's why I led my colleagues earlier this year to increase funding for small carriers and to propose changes to that prior order to respond to its many shortcomings. Later this year, I aim to circulate an order that will boost funding for small companies deploying broadband to rural America, while considering other reforms to ensure that money is spent wisely, and funding is more predictable going forward.

- b. Would any steps you take aim to address sufficiency concerns and provide more support both for those small carriers that adopted model support as well as those that are being hit by the 15% budget control right now?

Response: Yes.

- c. Can you commit to a vote by the end of this year to address these concerns?

Response: I commit to circulate an order to my colleagues addressing these concerns later this year.

The Honorable Bill Flores

1. The record in the 6 GHz Notice of Inquiry includes studies that show potential interference from unlicensed operations to mission critical communications systems, and there are concerns regarding mitigation strategies to reduce the potential for interference. If the FCC does expand the 6 GHz band to include unlicensed operations, how does the FCC plan to develop technical rules and implement mitigation capabilities to protect incumbent mission critical communications against interference?

Response: The record developed by the *Mid-Band NOI* reflects how greater unlicensed use in the 6 GHz range could facilitate the introduction of 5G services and help close the digital divide. A fundamental principle of unlicensed spectrum policy is that operations may not cause harmful interference to licensed services. I anticipate that the Commission's 6 GHz rulemaking process will foster proposals that protect incumbent services while allowing more intensive use of the band. Our staff will review that record and ensure that we can adequately protect existing users before proceeding to a final rule.

The Honorable Susan W. Brooks

1. Bridging the digital divide in rural areas remains a challenge, particularly regarding wireless connectivity. Since deployments by Educational Broadband Service (EBS) licensees and leasing partnerships with small wireless operator have been successful in delivering wireless broadband services in hundreds of rural communities, do you see a feasible opportunity to extend this successful model to areas where EBS has not been licensed before considering auctions?

Response: In May, the Commission unanimously voted to begin a proceeding that proposes to allow more efficient and effective use of the EBS band. The Notice of Proposed Rulemaking asks about giving existing EBS licensees, along with other educational entities and rural Tribal communities, the chance to obtain new local priority licenses before auctioning off the remaining white spaces. Our proposals also seek to give current users more flexibility, such as standardizing license areas and eliminating outdated restrictions on lease terms and how the spectrum is used. I look forward to reviewing the record and am hopeful that in the end we will be able to make more spectrum available for high-speed wireless broadband.

2. I introduced H.R. 5329, the Poison Control Center (PCC) Network Enhancement Act, which will help improve Americans' access to poison control center services during an emergency. I'm proud that this bill was packaged into H.R. 6, the SUPPORT for Patients and Communities Act, however there is one provision aimed at improving call routing accuracy for PCCs we pulled from the bill, so we could further explore how to best go about addressing the issue. The provision would have:

- Requested enhanced communications capabilities such as texting be established
- Requested the FCC work with HHS to ensure calls to the 1-800 number are properly routed
- Directed HHS to implement call routing based on a caller's actual location to ensure timely responses

Currently, calls to the poison control center's 1-800 number are routed based on the area code associated with the phone number of the caller. For example, if I (Susan Brooks) am in Washington, D.C. and call the poison control center's 1-800 number with my personal phone (Indiana area code 317), I would be connected to the center in Indiana, rather than a center closer to my actual location in Washington, D.C. This could present a problem in situations where a caller is in an area with a specific poisoning danger that might not be as well known to the poison control center staff in another location. PCCs standardize training across all regions, but it is still practical to assume that certain region's will be more familiar with certain situations. For example, if you visit California and are bitten by a rattlesnake and call the poison control center's 1-800 number, you would be directed to the poison control center in Indiana, which is likely not as well equipped with knowledge and experience regarding the treatment of a rattlesnake bite as someone in a California location. In this instance, as with most poisoning situations, timing is critical. It is important that the caller be directed as quickly as possible to the poison control center closest to where they are currently located.

- a. Are you aware of this issue with call routing accuracy with regard to PCCs?

Response: Yes, the Commission is aware of this issue with call routing from wireless phones, both in the context of Enhanced 911 calling and also for calls to the PCC toll free number and other emergency numbers. In addition, we are aware of commercial solutions available in the toll free services marketplace that can provide call routing based on the rough location of a wireless caller. Such capability is available via the Responsible Organization (RespOrg) that manages the toll free number for the toll free subscriber.

- b. Working on this issue made me wonder what we can learn from other emergency lines, like the Suicide Hotline and Veterans Crisis Lines to improve 9-1-1 and vice versa. Can you elaborate on what some of these potential similarities and learning opportunities might look like, and what, if any, role the FCC could play?

Response: The Commission's success in establishing location-based call routing with Enhanced 911 has resulted in an ecosystem of location-based technologies and providers, and the extension of such capabilities beyond 911 calling into other wireless calling and related applications, such as commercial toll free location-based calling services referenced above. I believe the Commission's continuing efforts in this area may continue to foster benefit to wireless usage beyond 911 systems. For example, earlier this year, the Commission issued a Notice of Inquiry on location-based routing for 911 calls, seeking industry and public input on reducing delays in and improving such functionality.

3. How should we ensure that we do not use universal service funding to overbuild an existing broadband provider when that existing provider serves, or has plans to serve, a significant number of, but not all, locations in a census block?

Response: The Commission is continuing to refine its universal service programs to more precisely target support. For example, participants in the Connect America Fund must report the precise geolocation of the locations they build out using federal funding. This below-census-block granularity will enable the Commission to more closely track compliance with our rules and ensure that overbuilding even within a census block does not occur.

4. How should we ensure that universal service funding is not used by a recipient to enter an adjacent area that is already served?

Response: Recipients of Connect America Fund support are prohibited from using that support anywhere outside of their eligible areas. In addition, recipients must submit the precise geolocation of the locations served using such funding to USAC for review and potential auditing.

- a. Would you consider an audit of current universal service spending to review this issue?

Response: USAC regularly reviews the submissions of carriers and conducts risk-based audits to ensure program compliance.

The Honorable Frank Pallone, Jr.

1. I'm concerned that the only time Democratic Members seem to get responses from you or the FCC to our oversight letters is either when we send public follow-up letters, or shortly before you're scheduled to testify before the Committee. Moreover, your responses often are incomplete and, further, the answers you do provide are so general and lacking in specificity that they do not truly satisfy the questions raised. This is particularly troubling given your commitment to Ranking Member Doyle and me at the beginning of this Congress to be responsive to both Democrats and Republicans.
 - a. Going forward, will you commit to providing complete responses to both Republican and Democratic Members of this Committee within three weeks of receiving such inquiries?

Response: I am happy to renew my commitment to respond to all congressional inquiries in a complete and timely manner. I have done so throughout my tenure. For example, when you wrote earlier this year asking about 26 letters written by Democratic members of the Committee, we had already responded to 21 of those letters—and I responded to the remaining five shortly thereafter. And as you know, each response requires an examination of different facts and circumstances that may require a substantial devotion of limited Commission resources.

Under my leadership, the Commission has been more transparent than ever before. I have responded to 389 letters over the last twenty months. And for the first time, we have released the full texts of meeting items three weeks in advance, thus providing Congress and the American people the ability to see what the FCC is considering before the Commission votes. This level of transparency at the Commission is unprecedented, and I look forward to working with you to maintain this transparency in the months and years ahead.

- b. To the extent you need additional time on some aspect of an inquiry, will you commit to submitting a written response within three weeks of receiving such request explaining what information you cannot provide at that time, what steps are being taken to provide a complete response to the inquiry, and by when the complete response will be sent?

Response: As I explain in the response to the question above, each letter I receive contains a unique set of facts and receives the singular attention that it deserves. Nonetheless I am happy to reiterate my commitment to respond to all congressional inquiries in a complete and timely manner.

The Honorable Yvette Clarke

1. Following FCC Auction 97 for AWS-3, which raised more than \$44 billion in auction proceeds, some committee Democrats, including myself, sent your agency a letter in June 2015, asking you to curb instances of “gaming” of the Designated Entity (DE) program. In our letter, we’d also offered some recommendations to make smart reforms to the FCC’s designated entity and other small business-related rules and policies. Our letter was prompted largely by public disclosures that DISH Network had heavily financed and could potentially exert unauthorized control over these DEs and licenses.

I understand though, that in late August 2017, the DC Circuit remanded the FCC’s decision to deny bidding credits to some of the winning DEs back to your agency. The DC Circuit agreed with the DE petitioners that in the past, the FCC had allowed small companies a chance to modify their contractual agreements with large investors to gain enough independence from those investors to satisfy the FCC.

Judge Pillard, who wrote that case opinion stated, “the FCC’s [rules and decisions] did not give [the Petitioners] clear notice” of which violations of its control rules were irreparable. (Op. at 45). Judge Pillard wrote further, “Where, as here, hundreds of millions of dollars are at stake, regulated parties need fair notice of the circumstances in which a finding of de facto control will and will not be subject to an opportunity to attempt to negotiate a cure.” (Op. at 45) The Circuit Court concluded “that an opportunity for [the] petitioner to renegotiate their agreements with DISH provides the appropriate remedy.” (Op. at 46).

The appeal holds very important implications for the future inclusion of designated entities and small businesses who wish to participate in spectrum auctions. Invariably, these bidders will need to seek out capital and execute financing and operations agreements that pass Commission muster. Without more clear guidance from the Commission, consistent with the DC Circuit’s remand, it is highly probable that designated entities and small businesses will continue to be shut out from the wireless marketplace.

- a. What is the status of the remand and when will the FCC act consistently with the DC Circuit opinion?

Response: In January 2018, the Wireless Telecommunications Bureau issued the *Order on Remand* (DA 18-70), which put in place a process to afford Northstar and SNR Wireless an opportunity to cure consistent with the D.C. Circuit opinion. On July 12, 2018, the Commission affirmed that order with one minor modification (FCC 18-98). This process remains ongoing.

- b. Have the petitioners in that appeal attempted to renegotiate with DISH Network and submitted those renegotiated terms to the FCC?

Response: Northstar and SNR Wireless have renegotiated their agreements with DISH and submitted the new agreements to the FCC on June 8, 2018.

- c. Provided that a satisfactory cure with respect to the petitioners is achievable, how will the Commission resolve the matters of the disputed Auction 97 licenses and the denied bidding credits?

Response: The *Order on Remand* established a process for petitioners and parties of record to provide input to the Commission on these issues. That process contemplates the possibility of additional filings by Northstar and SNR Wireless, currently due on September 6, 2018, with an opportunity by other parties of record to file responsive comments 30 days thereafter. Commission staff will evaluate the record established through this process and, once it is complete, make recommendations to the Commission about how to proceed.

2. It has come to my attention that the Commission recently notified at least two 600 MHz auction winners of *de facto* control concerns and afforded them an opportunity to cure.
 - a. Please identify all DE bidders participating in the AWS-3 and 600 MHz auctions that were afforded opportunities to cure *de facto* control issues.

Response: The Broadband Division has identified two DE bidders raising control issues (although not necessarily issues of *de facto* control)—Bluewater Wireless II, L.P. and Omega Wireless, LLC—and asked each to provide written explanations as to how specific provisions in their agreements were consistent with their eligibility for a small business bidding credit. In response, both applicants chose to revise their agreements.

- b. Do all DEs applying for FCC licenses and bidding credits have similar opportunities to cure potential *de facto* control issues consistent with the DC Circuit’s ruling?

Response: DEs who applied for Commission licenses and bidding credits before the D.C. Circuit’s ruling will receive similar opportunities to cure control issues. For upcoming Auctions 101 and 102, however, the Commission informed applicants that they “should not expect to receive any opportunities to revise their ownership structure after the filing of their short- and long-form applications, including making revisions to their agreements or other arrangements with interest holders, lenders, or others in order to address potential concerns relating to compliance with the designated entity bidding credit requirements.” *See* FCC 18-109.

- c. Do these opportunities to cure involve back-and-forth discussions or meetings between the FCC and the DEs?

Response: Neither the court decision nor the Commission’s rules and policies require the Commission to hold “responsive, back-and-forth discussions” with DEs, especially given the prohibitions applicable to a restricted proceeding. Instead, the Commission, like the court, expects that an opportunity to cure may require negotiations between DEs and those who have invested in them—negotiations common among business entities that have entered into contractual arrangements. The Commission’s role is simply to determine whether a DE has complied with the rules laid out for bidding credits, not to essentially negotiate against itself by allowing variances with an established decision by the agency (here, the denial of bidding credits to certain entities) that has already been upheld by the court as reasonable.

- d. Please identify which DEs have received or been denied licenses and/or bidding credits and detail what specific steps that the Commission took on its own or pursuant to

delegated authority to notify these DEs about these issues or to guide them on how to cure those issues.

Response: To date, no 600 MHz applicants have been denied any licenses or bidding credits for which they applied. Attached is a list of the applicants that have been granted 600 MHz licenses as of the date of this letter; applicants that received Small Business or Rural Service Provider bidding credits are identified on this list.

With respect to communicating with 600 MHz DE applicants about their eligibility for bidding credits, the Broadband Division sent two letters, which are attached, asking Bluewater Wireless II, L.P. and Omega Wireless, LLC to provide written explanations as to how specific provisions in their agreements were consistent with their eligibility for a small business bidding credit. In response, both applicants chose to revise their agreements.

- e. Will the Commission be taking any further actions under your Chairmanship to increase designated entity and small business ownership and participation through spectrum auctions in the communications and IT sectors?

Response: Pursuant to Section 309(j) of the Communications Act, the Commission regularly considers in the context of designing each of its spectrum auctions how to promote the dissemination of licenses among a wide variety of applicants, including but not limited to, through use of bidding credits. We are providing eligible small business and rural service providers the opportunity to seek bidding credits in upcoming Auctions 101 and 102, which should promote small business participation.

The Honorable Debbie Dingell

1. Given the Congressional and public attention questioning the FCC's reported DDoS attack, what did you do to verify whether the DDoS attack occurred and what steps did you take to address the alleged attack? Please provide all correspondence and other documentation between you and your staff that reflect your engagement on the issue.

Response: The Office of Inspector General Report details some of the steps we took to verify the determination that David Bray, the then-CIO, made. For example, the Commission's Chief of Staff asked the then-CIO if he was confident that the incident wasn't caused by a number of individuals "attempting to comment at the same time . . . but rather some external folks deliberately trying to tie-up the server." In response to this direct inquiry, the former CIO told him: "Yes, we're 99.9% confident this was external folks deliberately trying to tie-up the server to prevent others from commenting and/or create a spectacle." Moreover, in the days and weeks following the incident, my office had several conversations with the then-CIO and other Commission IT personnel to better understand what had happened, help answer questions regarding what had happened, and take steps to keep ECFS running.

In terms of addressing the situation, following the incident the Commission took several steps to ensure that ECFS remained operational. Career FCC IT personnel have explained to my office that they focused on three key areas with respect to ECFS: content delivery, system scaling, and application optimization.

For content delivery, FCC IT personnel improved caching both internally, within the ECFS system, and externally, leveraging our Content Delivery Network provider. Caching improves content delivery to the end user while reducing the load on ECFS.

With respect to system scaling, FCC IT personnel enhanced ECFS both vertically (using "larger" instances with more memory and CPU capacity) and horizontally (adding additional instances to the various clusters) to deal with the increased volume of requests. The scaling of the various components of ECFS was initially done manually but was later automated to the extent possible.

Finally, FCC IT personnel also optimized the ECFS application both in terms of data access and application functions. The data queries were optimized as the dataset increased and better indexing strategies were implemented to improve retrieval from the data store—especially for queries producing large return sets. The application functions were tested and optimized to improve performance to the end user.

2. When did you personally suspect that there was no May 7th DDoS attack?

Response: I initially assumed that the attack was not the result of a DDoS attack, but received a contrary opinion from the then-CIO (an opinion reinforced by IT staff on July 24, 2017 during a meeting my office). I personally suspected the then-CIO's opinion was wrong on January 23, 2018, when I learned that the Office of the Inspector General did not believe the then-CIO's representations were accurate. That suspicion was, as you know, confirmed in the OIG's report.

3. During the most recent FCC oversight hearing on July 25, 2018, when asked about providing the Committee with reports, requests, memoranda, and service logs related to the DDoS attack, you referenced the OIG and said you “would expect him to issue more information on this in the very near future.”

a. Were you aware of the findings of the IG’s report at that time?

Response: Yes.

b. Prior to the OIG’s report being released, were you ever advised by either the FCC’s General Counsel or the OIG to not correct the public record and your misrepresentations to Congress that there had not been a cyber-attack during the net neutrality comment period? If so, were those advisories in writing and will you commit to sharing those with the Committee?

Response: The OIG orally requested that we not discuss the investigation with anyone until it was complete in order not to jeopardize it (including the referral of facts involving the then-CIO’s conduct to the Department of Justice for potential criminal prosecution).

The Honorable Jerry McNerney

1. During the oversight hearing, I asked you about VPNFilter—Russian-linked malware that can be used to steal users’ information, exploit devices, and block network traffic. I noted that dozens of router models have been identified as susceptible to VPNFilter, and yet many consumers know nothing about it. While some consumers might be aware of it, they have been left wondering if their router is affected and what steps they should take to protect themselves from potential threats. Since your responses to my questions regarding this matter were not clear, I wanted to give you another opportunity to answer them.

- a. What is the FCC doing to make sure ISPs inform customers about VPNFilter malware, how to update their routers, and whether their routers have been compromised? Please specify all actions the FCC has taken to date and any steps the FCC plans to take going forward.

Response: When consumers file informal consumer complaints with the Commission about network and end user security concerns relating to a specific provider, we forward their concerns to the provider for investigation and response pursuant to our informal complaint process. We also refer consumers to the Federal Trade Commission, which has helpful information and resources regarding a variety of online security issues on its website. We are currently exploring additional avenues for consumer outreach and education.

- b. Is the FCC doing anything at all to help make consumers aware of how to protect themselves against their routers being infected by malware? Please specify all actions the FCC has taken to date since you became Chairman and any steps the FCC plans to take going forward.

Response: Please see response to 1.a. above.

2. You recently announced that you will be making changes to the FCC’s Electronic Comment Filing System (ECFS) in an effort to address fake comments. You have also noted that if your reprogramming request is approved by the House and Senate Appropriations Committees, the FCC will incorporate CAPTCHA or a similar mechanism to prevent bots from submitting comments.

- a. In addition to your plans to incorporate CAPTCHA or a similar mechanism, can you provide us with details about what else you plan to do to combat fake comments and the misuse of Americans’ identities?

Response: We intend to seek a broad range of input before making final decisions with respect to how ECFS will be redesigned, so I am not able to provide such details at this time.

- b. Are there any steps you can take now to prevent fake comments from being filed in matters currently pending before the Commission?

Response: The current system cannot validate the user identity, which is why we are focused on redesigning the ECFS system rather than modifying the existing system.

- c. Following the reprogramming request's approval, how quickly can you get started?

Response: The Commission is moving forward with the procurement steps for this project and expects that the Discovery/Requirements phase of the ECFS Replacement project will start in the first quarter of FY 2019.

- d. How long do you expect the process to take?

Response: Upon completion of the procurement steps and the Discovery/Requirements phase of the ECFS Replacement project, we will have a more accurate timeline for ECFS development. The estimated development time is six to nine months.

- e. Will you commit to giving me and the quarterly briefings on the FCC's actions to address fake comments, prevent identity theft, and restore the public's trust in the ECFS?

Response: The Commission will commit to providing quarterly briefings on ECFS development to Congress.

3. RAY BAUM's Act of 2018, which was signed into law as part of the Consolidated Appropriations Act of 2018, included my bill, the Improving Broadband Access for Veterans Act. Pursuant to this law, the FCC is required to produce a report examining the current state of veterans' access to broadband and what can be done to increase access, with a focus on low-income veterans and veterans residing in rural areas. In preparing this report, the FCC is to provide the public with notice and an opportunity to comment. The report must be completed by March 23, 2019 and include findings and recommendations for Congress.

Veterans, who fight tirelessly to protect our country, face many challenges when they return home. Not having internet access makes what is already an incredibly difficult transition process to civilian life even harder. It is critical that we move quickly to close the digital divide for veterans.

- a. Has the Commission started the process for producing this report?

Response: Yes. Commission staff are in the process of preparing the Public Notice for this report.

In the meantime, the FCC is working to promote broadband-enabled access and services to veterans. For example, I have delegated to Commissioner Carr the responsibility of spearheading a pilot program for telehealth connectivity, with a focus on increasing access for low-income families and veterans. In addition, I have personally visited three facilities run by the U.S. Department of Veterans Affairs (VA)—in Lecanto, Florida; Boise, Idaho; and Salt Lake City, Utah—to better understand how broadband can improve veterans' health through services like online mental health consultations. I have also spoken repeatedly to VA leadership about collaborating to broaden the availability of telemedicine services to those who have served in our armed forces.

- b. On what date do you expect that the Commission will begin to seek public comment for this report?

Response: We plan to release the Public Notice in the fall.

- c. Will you commit that by November 1, 2018, you will provide my office with a briefing on the status of the report?

Response: Yes. The Commission's Office of Legislative Affairs will coordinate with your staff to schedule a briefing on the status of the report.



FEDERAL COMMUNICATIONS COMMISSION
Wireless Telecommunications Bureau
Broadband Division
445 12th Street, S.W., Suite 3-C123
Washington, D.C. 20554

May 21, 2018

Thomas Gutierrez
Lukas, LaFuria, Gutierrez & Sachs, LLP
8300 Greensboro Drive, Suite 1200
Tysons, VA 22102

Re: Bluewater Wireless II, L.P.
Application for 600 MHz Licenses/Auction 1002
File No. 0007754927

Dear Mr. Gutierrez:

The Broadband Division (Division) of the Wireless Telecommunications Bureau (WTB) is processing the application of Bluewater Wireless II, L.P. (hereinafter "Applicant") for sixty-six 600 MHz Band licenses pursuant to its winning bids in Auction 1002¹ under FCC File No. 0007754927 (Application).² In its Application, Applicant seeks a 25% Small Business Designated Entity (SB DE) bidding credit in the amount of \$150,000,000.³

To establish its eligibility for the SB DE bidding credit, Applicant asserts that Charles C. Townsend, the sole owner and president of the Applicant's General Partner (GP), Bluewater Wireless Management Company, has both *de jure* and *de facto* control of the Applicant.⁴ With reference to the reviewed Bluewater Wireless, II, L.P. Agreement of Limited Partnership, dated December 1, 2015 (Agreement), filed with the Application, please provide by June 20, 2018 a written explanation as to how the specific provisions of that Agreement identified in Appendix A, both individually and in the aggregate, are consistent with this assertion. If your explanation leads Applicant to revise the Agreement, please include a redline of any changes when you file your explanation. All responses to this letter should be filed as part of the Application in ULS. In addition, please also send a courtesy copy of your filing addressed to Madelaine Maior at madelaine.maior@fcc.gov.

¹ *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (2017) (*Auction 1002 Closing Public Notice*).

² Bluewater Wireless II, L.P. Long-Form Application, FCC Form 601, ULS File No. 0007754927 (filed Apr. 25, 2017, last amended July 25, 2017) (Application); Bluewater Wireless II, L.P., FCC Ownership Disclosure Information for the Wireless Telecommunications Services, FCC Form 602, File No. 0007859165 (filed July 19, 2017).

³ *Auction 1002 Closing Public Notice*, 32 FCC Rcd at 2875, Appx. B.

⁴ See Application, Exhibit C – Small Business Bidding Credit.

Sincerely,

Blaise A. Scinto / job

Blaise A. Scinto
Chief, Broadband Division
Wireless Telecommunications Bureau

Attachment: Appendix A

APPENDIX A

1. The Agreement authorizes the GP to “manage the Partnership business . . . [and] perform all contracts and undertakings deem[ed] necessary or advisable or incidental to . . . the Partnership,” but only insofar as “all such acts and undertakings are contemplated by the Reviewed Budget” as submitted to the Advisory Board.¹
2. The LPs and the Advisory Board must approve the following actions taken by the GP on behalf of the Partnership even if contemplated in a Reviewed Budget. For example:
 - (a) The GP’s ability “to borrow money . . . in furtherance of any and all purposes of the Partnership,”² must be both contemplated in the Reviewed Budget³ and approved by the Advisory Board.⁴
 - (b) The Applicant may acquire and/or dispose of certain property only if such transactions are contemplated in the Reviewed Budget⁵ and the Advisory Board and the partners approve the transaction.⁶
 - (c) The GP may hire staff on behalf of the Partnership only if staff salaries and benefits are contemplated within the Reviewed Budget,⁷ and the Advisory Board approves of “the annual compensation and benefits for senior management of the Partnership.”⁸
 - (d) The GP-prepared budget is subject to Advisory Board approval if “aggregate expenditures proposed in the Reviewed Budget exceed by more than 20% the aggregate expenditures included in the immediately preceding Reviewed Budget.”⁹ Given the limited scope of the

¹ Bluewater Wireless II, L.P. Long-Form Application, FCC Form 601, ULS File No. 0007754927 (filed Apr. 25, 2017, last amended July 25, 2017), REDACTED Exhibit D –Agreement of Limited Partnership (Agreement) §§ 3.01(a), (e). *See also* Agreement § 3.05(a)(i) (“Reviewed Budget”). It is unclear how the Reviewed Budget relates to the initial budget, and how the initial budget is prepared, reviewed, and approved. Please address these questions in your response.

² Agreement § 3.01(e)(ii).

³ Agreement § 3.01(e).

⁴ Agreement § 3.04(c)(i)(d).

⁵ Agreement § 3.01(e)(i). We note that sections of the Agreement use the terms “asset” and “property” interchangeably, and neither term is defined in the Agreement.

⁶ Agreement §§ 3.04(c)(i)(f)(Advisory Board must approve “material asset transfers and acquisitions”), 3.06(c) (Advisory Board approval required to “sell . . . a material portion, all or substantially all of the Partnership’s assets), 4.01(a)(i) (requiring the “Consent of the Partners” for “[t]he sale, transfer, lease or other conveyance of all or substantially all of the Partnership’s property”). We note the term “material” is used to describe both a type of asset and a portion of the Partnership’s assets but is not defined in the Agreement. Further, the Agreement is unclear about whether the Advisory Board or the Partners must first approve a transaction disposing of all or substantially all of the Partnership’s assets. Please address these questions in your response.

⁷ Agreement § 3.05(a)(i).

⁸ Agreement § 3.04(c)(i)(e). Notably, the Agreement provides that, after the Applicant no longer is subject to the Commission’s Designated Entity rules, the Advisory Board must approve the annual budget and “any material amendments thereto.” Agreement §§ 3.04(c)(i)(c), 3.05(b)(i).

⁹ Agreement § 3.05(a)(ii).

initial budget,¹⁰ and the likelihood that the business will progress beyond this initial stage, one or more subsequent budgets are likely to exceed the 20% limit that triggers the approval of the budget by the Advisory Board. Even though the Agreement provides that the 20% limit is “applicable only when the Partnership remains in the same phase of development of its business . . . as reasonably determined by the [GP],”¹¹ the Agreement does not define “phase of development” for purposes of determining when the GP must obtain Advisory Board approval of a budget.

3. The Advisory Board has the unilateral authority to remove and replace the GP or force the sale or other disposition of the Partnership’s assets if the Advisory Board determines that “[GP president, Charles Townsend] fails to devote . . . such time as may be reasonably necessary for the proper performance of his duties and the General Partner’s duties under this agreement.”¹²

¹⁰ The Agreement states that the Partners agree that the initial budget consists only of a monthly [REDACTED] fee for the GP (capped at thirteen months) and an agreement to cover the GP’s expenses subject to a cap of [REDACTED]. Agreement § 4.02(b).

¹¹ Agreement § 3.05(a)(ii).

¹² Agreement § 3.04(c)(ii). *See also* Agreement § 3.01(f). The Agreement does not appear to define what is “reasonably necessary” or to place any limits on the Advisory Board’s determination of whether this standard is met. Please address these questions in your response.



FEDERAL COMMUNICATIONS COMMISSION
Wireless Telecommunications Bureau
Broadband Division
445 12th Street, S.W., Suite 3-C123
Washington, D.C. 20554

June 4, 2018

Tom W. Davidson
Akin, Gump, Strauss, Hauer & Field, LLP
1333 New Hampshire Avenue, N.W.
Washington, DC 20036

Re: Omega Wireless, LLC
Application for 600 MHz Licenses/Auction 1002
File No. 0007754732

Dear Mr. Davidson:

The Broadband Division (Division) of the Wireless Telecommunications Bureau (WTB) is processing the application of Omega Wireless, LLC (hereinafter "Applicant") for one-hundred and nineteen 600 MHz Band licenses pursuant to its winning bids in Auction 1002¹ under FCC File No. 0007754732 (Application).² In its Application, Applicant seeks a 25% Small Business Designated Entity (SB DE) bidding credit in the amount of \$32,234,183.³

To establish its eligibility for the SB DE bidding credit, Applicant asserts that the Controlling Members of the LLC⁴ and members of the LLC's Board of Managers⁵ have both *de jure* and *de facto* control of the Applicant. With reference to the reviewed Omega Wireless, LLC Amended and Restated Limited Liability Company Agreement, dated April 6, 2016 (Agreement) filed with the Application, please provide by July 9, 2018 a written explanation as to how the specific provisions of that Agreement identified in Appendix A, both individually and in the aggregate, are consistent with this assertion. If your explanation leads the Applicant to revise the Agreement, please include a redline of any changes when you file your explanation. All responses to this letter should be filed as part of the Application. In addition, please also send a courtesy copy of your filing addressed to Madelaine Maior at madelaine.maior@fcc.gov.

¹ *Incentive Auction Closing and Channel Reassignment Public Notice: The Broadcast Television Incentive Auction Closes; Reverse Auction and Forward Auction Results Announced; Final Television Band Channel Assignments Announced; Post-Auction Deadlines Announced*, Public Notice, 32 FCC Rcd 2786 (2017) (*Auction 1002 Closing Public Notice*).

² Omega Wireless, LLC Long-Form Application, FCC Form 601, ULS File No. 0007754732 (filed Apr. 27, 2017, last amended Jan. 17, 2018) (Application); Omega Wireless, LLC, FCC Ownership Disclosure Information for the Wireless Telecommunications Services, FCC Form 602, File No. 0008064598 (filed Jan. 17, 2018).

³ *Auction 1002 Closing Public Notice*, 32 FCC Rcd at 2875, Appx. B.

⁴ Kenneth D. Anderson, Christopher J. Jensen, Edward Moise, and W. Scott Soden are identified by Applicant as Controlling Members of the LLC. See Application, Exhibit C – Small Business Bidding Credit

⁵ Kenneth D. Anderson, Christopher J. Jensen, Edward Moise, W. Scott Soden, Barry B. Lewis, and Craig W. Viehweg are identified by Applicant as members of the LLC's Board of Managers. See Application, Exhibit C – Small Business Bidding Credit.

Sincerely,

A handwritten signature in blue ink that reads "Blaise A. Scinto". The signature is written in a cursive style with a large initial 'B'.

Blaise A. Scinto
Chief, Broadband Division
Wireless Telecommunications Bureau

Attachment: Appendix A

APPENDIX A

1. The April 6, 2016 Omega Wireless, LLC Amended and Restated Limited Liability Company Agreement (Agreement) confers management responsibilities on the Board of Managers.¹ However, several Company activities require authorization by a “supermajority”² of all Managers, thereby necessitating, at a minimum, one of the two stated Non-Controlling Managers voting in favor of the proposed actions.³ The activities subject to supermajority approval include:
 - the annual budget for expenditures;⁴
 - any “material deviation from the approved budget, the effect of which would have a substantial impact on the financial condition of the Company;”⁵ and
 - incurring “any indebtedness or authorize, cause or allow any Subsidiary to incur any indebtedness in an amount that, when combined with all other indebtedness of the Company and the Subsidiaries, exceeds twenty five percent (25%) of the annual budgeted capital expenditures.”⁶

2. The Agreement requires the consent of the Majority Institutional Investors⁷ before the Company, the Board of Managers or other agents of the Company may engage in certain activities and/or transactions,⁸ including:
 - any amendment of the Company’s charter documents, including the Agreement, without limitation (other than as reasonably required by the FCC);⁹ and
 - the sale, transfer or assignment of not only “all” but also “any portion” of the Company’s assets or property¹⁰

¹ Omega Wireless, LLC Long-Form Application, FCC Form 601, ULS File No. 0007754732, REDACTED Exhibit D – Amended and Restated Limited Liability Company Agreement § 6.1(a) (filed Apr. 27, 2017, revised Sept. 1, 2017) (Agreement) (“the powers of the Company . . . and business and affairs of the Company shall be managed under the direction, a Board of Managers . . . and . . . the Board may make all decisions and take all actions for the Company not otherwise provided for in this Agreement.”).

² “Supermajority Vote” means the affirmative vote or written consent of four of the five Board votes, under most circumstances. Agreement § 1.1 (“Supermajority Vote”).

³ Agreement § 6.4(b). There are five members of the LLC’s Board of Managers, two of whom are Non-Controlling Managers. See Agreement §§ 6.1(c) (naming Kenneth D. Anderson, W. Scott Soden, Christopher J. Jensen, Craig Viehweg, and Barry Lewis as the initial Managers of the Company); 6.1(g) (defining “Non-Controlling Manager”, identifying Craig Viehweg and Barry Lewis as Non-Controlling Managers, and establishing the right of the Majority Institutional Investors to nominate Non-Controlling Managers).

⁴ Agreement § 6.4(b)(ii).

⁵ Agreement § 6.4(b)(iii).

⁶ Agreement § 6.4(b)(iv).

⁷ “Majority Institutional Investor” means “the Institutional Investors [comprised of M/C, Peppertree and Shamrock] whose Commitments as of the date of this Agreement amount to a majority of the Commitments made by all of the Institutional Investors as of the date of this Agreement” Agreement § 1.1.

⁸ Agreement § 6.4(a).

⁹ Agreement § 6.4(a)(iii).

¹⁰ Agreement § 6.4(a)(vii).

Applicant	Bidding Credit
Agri-Valley Communications, Inc.	RSP 15%
Alaska Wireless Network, LLC	
AT&T Spectrum Holdings LLC	
Bluewater Wireless II, L.P.	SB 25%
Carolina West Wireless, LLC	RSP 15%
CC Wireless Investment, LLC	
Cellular South Licenses, LLC	
Chariton Valley Telephone Corporation	RSP 15%
CT Cube, L.P.	RSP 15%
Cumberland Cellular Partnership	RSP 15%
Docomo Pacific, Inc.	
East Kentucky Network, LLC	RSP 15%
Farmers Telephone Cooperative, Inc.	RSP 15%
Gold Spectrum, LLC	SB 15%
Hulce, James C	SB 25%
Inland Cellular LLC	RSP 15%
Iowa RSA 2 Limited Partnership	RSP 15%
Kentucky RSA 3 Cellular General Partnership	RSP 15%
Kentucky RSA 4 Cellular General Partnership	RSP 15%
LICT Wireless Broadband Company, LLC	
Mach FM Corp.	SB 25%
McCotter, James E	SB 25%
NE Colorado Cellular, Inc.	RSP 15%
NEIT Services, LLC	RSP 15%
Nex-Tech Wireless, LLC	RSP 15%
Northeast Nebraska Telephone Company	RSP 15%
Northern Valley Communications, LLC	SB 25%
Nova Wireless LLC	
Nsight Spectrum, LLC	
Omega Wireless, LLC	SB 25%
Pacific Comnex, Inc.	SB 25%
Panhandle Telecommunication Systems, Inc.	RSP 15%
ParkerB.com Wireless L.L.C.	
PBP LICENSE GROUP, LLC	RSP 15%
Pine Belt Cellular, Inc.	RSP 15%
Pine Cellular Phones, Inc.	RSP 15%
Pioneer Telephone Cooperative, Inc.	RSP 15%

Plateau Telecommunications, Incorporated	RSP 15%
Polar Communications Mutual Aid Corporation	RSP 15%
Rural Telephone Service Co., Inc.	RSP 15%
Sagebrush Cellular, Inc.	RSP 15%
SAL Spectrum, LLC	
SI Wireless, LLC	RSP 15%
Smith Bagley, Inc.	RSP 15%
Spectrum Financial Partners, LLC	SB 25%
Spotlight Media Corporation	SB 25%
T-Mobile License LLC	
Tradewinds Wireless Holdings, LLC	SB 25%
Triangle Communication System, Inc.	RSP 15%
TStar 600, LLC	SB 25%
UNITED STATES CELLULAR CORPORATION	
TOTAL	

Key:

SB 15% = granted a 15% small business bidding credit (revenue does not exceed \$55 million)

SB 25% = granted a 25% small business bidding credit (revenue does not exceed \$20 million)

RSP 15% = granted a 15% rural service provider bidding credit (subscribers fewer than 250,000)