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

In the Matter of Connect America Fund	)))	WC Docket No. 10-90
ETC Annual Reports and Certifications	))	WC Docket No. 14-58
Establishing Just and Reasonable Rates for Local Exchange Carriers	)))	WC Docket No. 07-135
Developing a Unified Intercarrier Compensation Regime	))	CC Docket No. 01-92

COMMENTS OF FWA

Introduction

FWA, Inc. (FWA) is a financial and regulatory consulting firm that represents several rate-of-return carriers that operate primarily in Arkansas, Kansas, Oklahoma and Texas. FWA's clients rely on Federal High Cost support to provide affordable voice and broadband services throughout their rural study areas. FWA's clients provide service in 12 study areas. Three of the study areas receive federal high cost support based on the A-CAM model. The remaining nine study areas receive high-cost support based on the legacy rate-of-return mechanisms. These consist of High Cost Loop Support (HCLS), Safety Valve Support (SVS) and Broadband Loop Support (BLS).

FWA clients' federal high cost support per-line is significant and necessary for provision of affordable services in the rural areas they serve. Sufficient and predictable federal high cost support is also critical to the deployment and maintenance of networks that provide quality services and can provide broadband services.

Most FWA clients have deployed broadband services to a large portion or throughout their study areas. The availability of broadband services in the rural areas served by FWA clients wouldn't be possible without sufficient federal high cost support.

In its Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration,[1] the Commission took several positive steps for rate-of-return carriers that provide broadband services in rural America. The Commission enhanced funding for rural broadband networks that will promote buildout. Further the Commission's actions will make funding more sufficient and predictable. Specific steps taken by the Commission included:

- An offer of support up to $200 per location or $67 million per year for A-CAM companies and a two-year extension of A-CAM support;
- The option for legacy rate-of-return carriers to opt into a new offer of A-CAM support that will provide funding up to $200 per location with less restrictions than previous model offers;
- Stabilization of the legacy carrier budget by eliminating impacts of the Budget Control Mechanism (BCM) from July 1, 2018 through June 30, 2019 and implementing a minimum threshold of support that will not be impacted by future application of the BCM;

[1] *Connect America Fund; ETC Annual Reports and Certifications; Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime;* WC Docket Nos. 10-90, 14-58, and 07-135, CC Docket No. 01-92; Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, FCC 18-176 (Released December 13, 2018) (*Order and FNPRM*)

- Adjusting the budget to fully fund legacy carriers' 2018 uncapped claims, providing a one time increase of 7% in 2019 and increasing support annually for the impact of inflation; and
- Providing targeted broadband buildout obligations for carriers that receive high cost support.

These measures will have a positive impact on the availability and quality of broadband services in FWA's clients' service areas. FWA appreciates the Commission's commitment to promoting broadband services in rural America.

In the companion Further Notice of Proposed Rulemaking (FNPRM), the Commission is seeking comment on other items that will impact rate-of-return carriers' future support levels. These are:

A. A proposal to award support through auctions for study areas that are overlapped or almost entirely overlapped by unsubsidized competition;
B. Measures necessary to potentially limit support increases that result from consumers moving to broadband-only lines; and
C. Incorporation of factors into the legacy support system to enhance funding in tribal areas.

FWA's comments will address the three issues raised in the FNPRM.

A. Auction for Entirely or Almost Entirely Overlapped Areas

The FNPRM seeks comments regarding an auction process for study areas that are overlapped or almost entirely overlapped by unsubsidized competition. In the FNPRM it is stated that based on 477 information, "[c]urrently, there are eight legacy study areas with 100% overlap and seven legacy study areas with at least 95% overlap with approximately $12 million in unconstrained projected claims for all 15 study areas for 2018."[2] As highlighted in the FNPRM, the amount of rural study areas with total competitive overlap or almost entirely overlapped isn't significant. While FWA understands the goal of efficiently subsidizing rural areas that are competitive, any purported benefits from auctioning of support in legacy study areas are likely to be minimal.

FWA is concerned that eroding an incumbent provider's support through a piecemeal auction process could jeopardize the quality of service in rural areas. The Commission is considering use of census blocks or census block groups as the eligible areas.[3] There are hundreds to thousands of census blocks per study area. Census block groups, while larger than census blocks would still represent numerous areas subject to auction. If support is auctioned off and subdivided on a census block or census block group basis, the incumbent provider could be left with the most difficult and costly areas to serve with significantly less funding available to do so. Incumbent providers have built networks and incurred costs to serve their entire study areas which includes the most sparsely populated and highest cost areas.

[2] FNPRM, para. 185
[3] See FNPRM, para. 186

Dissecting support mechanisms and reducing cost recovery of the incumbent providers deters economies of scale and could adversely impact the quality of service in rural areas. FWA would urge the Commission to take a cautious approach before auction of support is pursued in rural areas. It may be reasonable for the Commission to wait and determine the effectiveness of winning bidders in the CAF II auction process that was pursued in price cap areas. It would be beneficial to review this process to determine whether the auction process will yield quality networks for serving rural customers, including those in areas with very low population densities.

Indication of overlap on the 477 form does not tell the complete story regarding the existence of competition. Service providers may report serving census blocks they don't serve or where their networks only reach a very small number of customers located in that block. Also, census blocks and census block groups don't exactly match the study area boundaries that rural providers' networks serve. It is also not entirely clear from 477 information whether the competitor is providing voice services throughout a census block or census block group. Because of limitations in the 477 data, it is imperative, that the Commission allow a challenge process before proceeding with auctions for study areas that are overlapped.[4]

Before opening up a study area's support for auction, the challenge process will assist the Commission in obtaining assurance that competing providers are serving or able to serve the entire study area and meet universal service objectives.

[4] See FNPRM, para. 185

B. Measures Necessary to Potentially limit Support Increases that Result from Consumers Moving to Broadband-Only Lines

In the FNPRM, the Commission acknowledges that “as carriers move from offering voice and voice/broadband lines to broadband-only lines, the amount of support required from the Fund will increase.” To address this concern, the Commission adopted a 7% budgetary increase in 2019.[5] FWA agrees that the demand for funding due to growth in broadband-only lines is likely to increase, especially over the next few years. In the FNPRM it is stated there are “concerns that some carriers may be moving consumers onto broadband-only lines for the purpose of artificially increasing the support they receive from the Fund.”[6] Comment is sought on whether measures are necessary to address this issue.

It is difficult to assess the impact of growth in broadband-only lines on the support budget. FWA doesn’t have industry data available to determine the expected rate of growth in broadband-only lines for legacy rate-of-return carriers. This data is essential for assessing funding requirements and evaluation of whether specific carriers’ broadband-only growth rates are reasonable. The availability of broadband-only funding started in 2016. Only two full years have transpired since and data showing the actual number of voice or voice/data lines and broadband-only lines is not available for enough years to enable assessment. Further, numerous carriers have not yet made broadband-only services available or are in the very early stages of implementation. Likewise, the amount of actual demand for funding is not yet available.

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[5] FNPRM, para. 200

[6] Id.

USAC will not release a new budget for HCLS and BLS support until May 2019. The BLS support is based upon a forecast and may not be borne out by actual amounts once available. Nevertheless, for the next year or two, FWA would tend to agree with the Commission's assessment that the "7% increase should exceed any increases to the budget due to conversions of lines from voice or voice/broadband to broadband-only."[7] However, the Commission may want to implement additional measures targeted to reduce the support available to carriers that may be moving consumers to broadband-only lines to artificially increase support. These measures would only be necessary in the event the overall demand for funding exceeds the legacy rate-of-return budget. Additional constraints, if necessary, are more likely be applicable in the early years of broadband-only transition.

FWA recognizes that it is the Commission's goal to promote the deployment of broadband services. Consequently, FWA is cautious in recommending additional measures to reduce support available to carriers deploying broadband-only services. However, in instances where carriers are showing rapid conversion and extraordinary growth in broadband-only lines, there may be a need to limit their funding, especially in the early years of deployment. Otherwise, carriers that haven't caused strain on the budget will be unfairly penalized.

The FNPRM seeks comment on whether the Commission should adopt a limit on the number of lines for which a carrier may seek broadband-only support.

[7] Id.

FWA supports the concept of limiting broadband-only support in cases where it is causing unreasonable demands on funding due to a rapid conversion to broadband-only lines and causing the budget to be exceeded. The challenging question is what should trigger the constraint, if necessary, on a carrier's broadband-only support.

Without a reasonable amount of data, it is difficult to assess what rate of conversion to data-only broadband lines is reasonable. A carrier that converts all or most of its lines to broadband-only in a short time-frame may be gaming the system. To constrain funding in an equitable manner, the Commission could establish a threshold, based on the percentage conversion rate from voice/data to broadband-only lines, to potentially trigger reductions in broadband-only funding.

To provide the Commission information to assist in evaluating the reasonableness of broadband-only conversion rates, FWA is providing information for two of its clients that are providing broadband-only services. These clients have offered broadband-only services for several months.[8] Neither of these clients have employed an unregulated VOIP option for voice service to enable a broadband-only classification. The take-rate for the service is based solely on consumer demand for broadband services. Both clients, in FWA's opinion, have very strong take-rates for broadband-only services.

The first client began offering broadband-only in July 2017. In the first year after offering the service, approximately 15 percent of the access lines converted to broadband-only.[9] The first four months accounts for 10 percentage points of these conversions or two-thirds.

[8] Most of FWA's clients only recently began offering broadband-only services.

Since the first twelve months, the anticipated conversion rate has slowed to approximately 4 percent annually. Also, over 18 months since offering broadband-only services, the company grew total broadband lines on average by 4 percent annually.

The second client began offering broadband-only in April 2018. Based on actual data for 10 months and 2 months of estimates, it is expected that in the first-year approximately 20 percent of the access lines will convert to broadband-only. The first four months accounts for 11 percentage points of these conversions or well over half. The conversion rate for the second year is expected to be approximately 13 percent. Also, for the first 12 months since offering broadband-only services, the company grew total broadband lines by 26 percent. This amount was largely attributable to fiber-based services becoming available in areas not previously served with fiber.

Based on this limited information, conversion rates for existing consumers to broadband-only services that approach 25 percent may not be unreasonable. Higher annual conversion rates in the initial periods of offering data-only broadband could be attributable to other factors. These would include the carrier aggressively marketing data-only broadband and/or enabling broadband-only classification through conversion of voice services to unregulated VOIP services. FWA is reluctant, based on limited information, to recommend a specific percentage as a basis for potential limitations of broadband-only support. The FWA client data is offered for the Commission's use in evaluating conversion rates for broadband-only lines. Unfortunately, FWA doesn't have sufficient industry-wide data to analyze the impact of limiting support based on conversion rates for broadband-only lines.

NECA and USAC may possess such data and analyses. The Commission should carefully analyze impacts on carriers before adopting a limitation of support based on conversion rates for broadband-only lines.

The Commission in the FNPRM considers other methods to limit a carrier's support. One approach suggested is that when a line converts to broadband-only, carriers should immediately lose HCLS for that line. Under the current rules, "when a line converts to broadband-only, a carrier immediately begins receiving the increased CAF BLS support but also continues to receive HCLS for two years even though there is no longer intrastate voice service on the line because of the manner in which HCLS is calculated."[10] The FNPRM inquires whether carriers should immediately lose HCLS for any lines converted to broadband.

The immediate elimination of HCLS for voice lines that convert to broadband-only lines would reduce funding requirements. What is troubling about this approach is that it would permanently deny carriers recovery of a portion of costs they incurred to provide universal service. The HCLS mechanisms enables carriers to recover a portion of their actual costs approximately two-years in arrears. Cutting off two-years of cost recovery denies carriers the ability to recover costs and may negatively impact intrastate rates. The HCLS funding serves as an offset to intrastate costs. Prematurely removing recovery of the costs through HCLS may exert significant pressure on intrastate rates or other recovery mechanisms. This approach would also likely impose more harm on smaller carriers with fewer options for cost recovery. Further, it penalizes all carriers converting to broadband-only services rather than only those that may be purposely artificially increasing support.

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[10] FNPRM, para. 202

For these reasons, FWA doesn't support the immediate elimination of HCLS support for lines that convert to broadband-only.

The FNPRM asks if "there are circumstances under which a legacy carrier that converts a line to broadband-only but retains that voice customer with interconnected VoIP service should have to impute some portion of those revenues against its CAF ICC support?"[11] As the Commission already acknowledges, its rules "generally require carriers to impute an amount on broadband-only lines equal to the ARCs they would have assessed on voice and voice/broadband access lines."[12] FWA believes that this approach is sufficient to account revenue for broadband-only lines including those that are used to provision VOIP service in the calculation of CAF/ICC support. Additional imputations are unwarranted.

C. Incorporation of Factors into the Legacy Support System to Enhance Funding in Tribal Areas

FWA supports efforts to recognize the challenges of deploying high-speed broadband to rural Tribal communities. Incorporation of a Tribal Broadband Factor into the legacy BLS mechanism is an appropriate action to target additional BLS support to tribal areas. FWA doesn't oppose reducing the $42 per month per line CAF BLS funding threshold to $31.50 for tribal areas.[13]

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[11] FNPRM, para. 204

[12] Id.

[13] See FNPRM, para. 207

For HCLS, FWA doesn't have a specific recommendation to target additional support to tribal areas.[14] However, given that consumer demand is more focused on broadband service, it makes sense for the Commission to target tribal support to broadband service deployment rather than voice service. FWA doesn't anticipate that additional support for tribal areas will cause unreasonable increases and strain on the budget. Nevertheless, the Commission in considering tribal broadband factors should ensure that their employment doesn't impose unreasonable increases.

D. Summary

FWA's comments support:

- The Commission should not unintentionally harm universal service in incumbent rural providers' service areas through a piecemeal auction process. FWA urges the Commission to take a cautious approach before auction of support is pursued in competitively overlapped rural areas.
- Because of limitations in the 477 data, it is imperative that the Commission allow a challenge process before proceeding with auctions for study areas that are overlapped.
- If budget funds are insufficient due to instances where carriers are showing rapid conversion and extraordinary growth in broadband-only lines, there may be a need to limit their funding, especially in the early years of deployment.
- FWA doesn't support the immediate elimination of HCLS support for lines that convert to broadband-only.

[14] See FNPRM, para. 208

- The current rules governing calculation of CAF/ICC support that require imputation of an ARC to account revenue for broadband-only lines, including those that are used to provision VOIP service, are adequate. Additional imputations are unwarranted.
- Incorporation of a Tribal Broadband Factor into the legacy BLS mechanism is an appropriate action to target additional BLS support to tribal areas. FWA doesn't oppose reducing the $42 per month per line CAF BLS funding threshold to $31.50 for tribal areas.

  The Commission should be cautious that the Tribal Broadband Factor doesn't impose unreasonable funding increases.

Respectfully Submitted,

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