

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

In the Matter of	)	
	)	
Petition for Rulemaking to Define	)	RM No. 10522
“Captured” and “New” Subscriber Lines	)	
for Purposes of Receiving Universal	)	
Service Support Pursuant to 47 C.F.R. §	)	
54.307 et seq.	)	

**COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP**

The Rural Telecommunications Group (“RTG”) hereby respectfully submits its comments in the above-captioned proceeding in response to the Federal Communications Commission (“FCC” or “Commission”) *Public Notice* released September 9, 2002 (DA 02-2214).<sup>1</sup> RTG opposes the National Telecommunications Cooperative Association’s (“NTCA”) Petition for Expedited Rulemaking (“petition”) requesting that the Commission establish definitions for the terms “captured” and “new” in Section 54.307 of the Commission’s Rules in order to limit portable high-cost universal service support.<sup>2</sup> RTG’s members, many of whom are also NTCA members, believe that NTCA’s petition, which limits high cost universal service support for additional lines, would harm the innovative provision of universal service in rural

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<sup>1</sup> RTG is a group of rural telecommunications providers who have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved regions of the country. RTG’s members provide wireless telecommunications services, such as cellular telephone service, Personal Communications Services (“PCS”), Multichannel Multipoint Distribution Service (“MMDS”), and Local Multipoint Distribution Service (“LMDS”) to their subscribers. RTG’s members are all affiliated with rural telephone companies or are small businesses.

<sup>2</sup> See National Telecommunications Cooperative Association, Petition for Rulemaking to Define “Captured” and “New” Subscriber Lines for Purposes of Receiving Universal Service Support Pursuant to 47 C.F.R. § 54.307 et seq., filed July 26, 2002 (“*NTCA Petition*”).

areas and is contrary to the universal service provisions of the Telecommunications Act of 1996 (“Act”) and decades of Commission precedent.

Consistent with the universal service principles codified in Section 254 of the Act, the FCC allows high cost universal service support for multiple lines serving the same customer.<sup>3</sup> Providing support for multiple lines is entirely compatible with Section 254 (b)(3) of the Act which provides:

*Consumers... in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.*<sup>4</sup>

Many urban consumers have multiple lines to their homes in order to access both information/data services and voice service. Whether these lines are wireless or wireline is immaterial under the language of the Act. The current FCC practice of providing high cost universal service support for multiple lines in rural areas, both wireline and wireless, is fully consistent with the Act’s requirement that urban and rural services and rates be “reasonably comparable.”

NTCA’s petition threatens statutorily mandated high cost universal service support for both wireline and wireless carriers. Under the Commission’s current rules, an NTCA member who is providing support to a customer with only one phone line will receive additional support if that customer adds another line for data capability. Applying the reasoning behind NTCA’s proposed rule change, this additional line should not be supported since the line was not really “captured” – surely a result with which NTCA and its members would disagree. NTCA’s

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<sup>3</sup> See 47 C.F.R. § 54.307.

<sup>4</sup> 47 U.S.C. § 254(b)(3).

concern about the apparent “erosion” of universal service and the need to eliminate “duplicative” support would suggest that this additional wireline connection to the customer does not deserve high cost support.<sup>5</sup> RTG submits that this position is contrary to the very idea of universal service, both codified in the Act, and as evidenced by the Commission’s commitment to universal service decade after decade. Supporting multiple lines simply allows urban/rural compatibility in the availability and pricing of telecommunications services.

NTCA crafts its proposed rules to allow continued support for multiple lines as long as they are wireline lines, revealing NTCA’s longstanding universal service position that high cost support for multiple lines is consistent with both the Act and Commission precedent. However, NTCA’s “grounds” for preventing duplication of support, while aimed at wireless carriers, also threaten wireline providers who provide, consistent with their urban counterparts, multiple lines to customers who desire both voice and data connections. The same arguments that NTCA uses about additional wireless lines leading to “uncontrolled ballooning of the high-cost support” fund can easily be applied to duplicative landlines.<sup>6</sup> RTG suggests that such duplicative support, although it is leading to an increase in the size of the universal service fund, is consistent with the Act’s emphasis on urban/rural comparability. Whether this duplicative support is landline or wireless is immaterial.

Support for both landline and wireless carriers is consistent with the FCC’s universal service principle of “competitive neutrality.” In the *First Report and Order on Universal Service*, the Commission defined competitive neutrality as follows:

*Universal service support mechanisms and rules should be competitively neutral. In this context, competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider*

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<sup>5</sup> See *NTCA Petition* at p. 3 and 4.

<sup>6</sup> *Id.* at p. 15.

*over another, and neither unfairly favor nor disfavor one technology over another.*<sup>7</sup>

Pursuant to this principle, the Commission should be (and currently is) technologically “agnostic” to the type of carrier that provides universal service to a customer. RTG members and even NTCA members use wireless means as a way to provide service to some of the most high cost and remote customers in the nation. If a customer desires to augment single line service with either the addition of an additional wireline or wireless connection, competitive neutrality dictates that high cost support should flow to the additional connection regardless of the customer’s chosen technology.

*If* the Commission determines that the growth in support to multiple lines is contrary to the Act and economically unjustifiable (a conclusion RTG does not support), the Commission will have to take a hard look at how portable support is now provisioned. The FCC will have to re-visit support for multiple wireline connections. The FCC will have to examine how to choose between a wireless provider of support and a wireline provider of support. For example, will wireless and wireline carriers have to battle, similar to interexchange carriers, to be a customer’s “primary” provider of universal service support? Will wireless phones which are primarily used for voice and that will have automatic location identification (“ALI”) capabilities for E911 calls<sup>8</sup> be that natural recipient of universal service when a customer uses a wireline connection solely for data? Should wireless carriers use their own costs to determine universal service support payments? All these questions are prompted by NTCA’s petition and would require further Commission study.

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<sup>7</sup> *In re Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776 at ¶ 47 (May 8, 1997).

<sup>8</sup> See 47 C.F.R. § 20.18.

Along the lines of further study, RTG agrees with the Organization for the Promotion and Advancement of Small Telecommunications Companies' ("OPASTCO") comments in this proceeding that the issues raised by NTCA should be considered in "one unified proceeding."<sup>9</sup> The Commission should hold off on the piecemeal reform of universal service portability desired by NTCA in its petition and consider multiple line support, wireless carrier costs, and competitive neutrality on a comprehensive level.<sup>10</sup> In the meantime, and as part of a future proceeding, RTG respectfully suggests that additional lines, be they wireline or wireless, are fully deserving of high cost universal service support consistent with the Telecommunications Act of 1996 and Commission precedent.

Respectfully submitted,

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/s/

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<sup>9</sup> See OPASTCO Comments at p. 2.

<sup>10</sup> Commissioner Abernathy has indicated that the Commission is planning a rulemaking concerning whether commercial mobile radio service ("CMRS") providers should receive universal service support based upon their costs. See *Separate Statement of Commissioner Kathleen Q. Abernathy, In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 02J-45 at p. 41 (July 10, 2002). Such a proceeding is a reasonable forum for examining the issues raised by the NTCA petition.