

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

DIALTONESERVICES, L.P. COMMENTS

DialToneServices, L.P. (“DTS”) submits these comments on the Joint Board’s Public Notice (“PN”), FCC 07J-2 (released May 1, 2007), regarding long term, comprehensive high-cost universal service reform. DTS brings a unique perspective to this proceeding as a facilities-based provider of universal service in the most remote, rural parts of Texas using mobile satellite service (“MSS”) technology. In these comments, we provide basic background about DTS and the services it provides, and we address the following issues raised in the Public Notice, focusing primarily but not exclusively on reverse auctions:

(1) The structure of a reverse auction, especially the CTIA proposal (PN ¶ 4 & n.10), consistent with the core principle of competitive neutrality and enabling competitive entrants to serve rural consumers (¶ 7) – and in the context of CTIA’s “winner takes more” proposal, a “bid to zero” incentive could be added to further reduce support amounts in lower-cost areas while targeting funds to support truly high-cost areas;

(2) Targeting support to the highest-cost areas on a granular, geographically disaggregated basis, whether using auctions (¶ 4) or some other basis to determine the level of support (¶ 6); and

(3) The relationship between reverse auctions and the “affordability” principle (¶ 4).

Background

DTS provides facilities-based telecommunications service to consumers in the most remote, rural areas of Texas, using mobile satellite service (“MSS”) technology.¹ The Texas Public Utilities Commission (“PUC”) has designated DTS as an Eligible Telecommunications Carrier (“ETC”) for purposes of the federal high-cost support program, and as an Eligible Telecommunications Provider (“ETP”) for purposes of the Texas state high-cost support program, in some of the most sparsely populated exchange areas of 3 large incumbent local exchange carriers (“ILECs”) and 8 small, rural ILECs. The PUC also has designated DTS as an ETC and ETP for many “uncertificated” areas – *i.e.*, geographic areas that are not included within any ILEC service territory, and where no service is available at all from an ILEC or any other carrier.²

The Texas PUC has established a unique state USF support mechanism to promote telecommunications services to these uncertificated areas. The Texas PUC determines the monthly per-line state USF funding for ETPs in unserved areas based on either (1) an average of the per-line support available in adjacent ILEC study areas, or (2) the lowest-cost bid offered by an ETP in response to a competitive request for proposals (“RFP”) process, subject to detailed specifications. However, no federal high-cost support is available in these uncertificated areas, because there is no existing ILEC “study area” upon which to base high-cost support amounts.

¹ More detailed information about DTS is available on the company’s web site: <http://www.dialtonetexas.com>.

² *Application of DialToneServices, L.P. (DTS) for Designation as an Eligible Telecommunications Carrier (ETC) Pursuant to PUC Subst. R. 26.418*, PUC Docket No. 30765 (Aug. 2, 2005); *App. of DTS for Designation as an Eligible Telecommunications Provider (ETP) Pursuant to PUC Subst. R. 26.417*, PUC Docket No. 30812 (Aug. 2, 2005); *App. of DTS to Amend Its Designation as an ETC and an ETP to Include Certain Exchanges Served by Valor Telecomm. of Texas, L.P. and Sprint/United Tel. Co. of Texas*, PUC Docket No. 31399 (Sept. 2, 2005); *App. of DTS for Designation as an ETC and an ETP in Certain Uncertificated Areas*, PUC Docket No. 31401 (Sept. 2, 2005); *App. of DTS to Amend Its Designation as an ETC and an ETP to Include Certain Study Areas Served by Rural Telephone Companies*, PUC Docket No. 32024 (June 22, 2006), *reh’g denied*. Each of these decisions and the records in these proceedings are available online: navigate to <http://interchange.puc.state.tx.us>, click “login,” and enter the PUC docket number. Note that the Texas PUC applies more rigorous and detailed criteria for ETP designation than those that apply to federal ETC designation.

There are vast uncertificated areas in other western states that are not served by any ILEC, but outside Texas, there is no support mechanism to enable an ETC that is not a traditional ILEC to provide service.

In addition to these completely unserved areas, DTS also provides telecommunications service to ranches, farms, and homesteads that are included in ILEC exchange areas, but are so remote that, as a practical matter, ILEC service is unavailable or unaffordable. Consumers in these remote locations often cannot afford the “line extension” fees that ILECs typically charge – often running into the tens of thousands of dollars. Customers also cannot afford to comply with the ILECs’ burdensome requirements, in some cases, that customers must install and maintain their own lines from their premises to a distant meet-point in the ILEC network.³ These customers also may be “underserved” by the ILECs due to poor service quality: call quality may be degraded because the ILEC uses extremely long copper loops, obsolete technologies such as Basic Exchange Telephone Radio Service (“BETRS”), or microwave repeaters that are unable to cover remote locations. DTS fills the gap and provides a competitive, high-quality service to these unserved or underserved homes, businesses, and public entities (*e.g.*, volunteer fire departments, county sheriff offices, rural ambulance and rescue districts, and school districts).

DTS is able to serve our rural consumers at reasonable rates – even though the costs we incur are much higher than the rates we charge – only due to the availability of federal and/or state high-cost USF support.

Issues Raised in the Joint Board’s Public Notice

1. The Structure of a Competitively Neutral Reverse Auction. DTS generally agrees with the principles and recommendations set forth in CTIA’s reverse auction proposal filed on

³ In some cases, the ILECs have loosened these requirements and/or reduced their line extension fees in response to DTS’s competitive entry – demonstrating that competition benefits consumers even in the most rural areas.

November 8, 2006.⁴ A well designed reverse auction should include all incumbent and competitive ETCs, without regard to regulatory status or technology. This would maximize benefits for rural consumers, create incentives for low bids and for serving rural areas as efficiently as possible, and avoid undermining competition. Consumer preferences should drive the definition of supported services: for example, if consumers prefer satellite-based technologies, mobility, higher-speed access, or other service characteristics, the auction design should not impede their ability to make these choices. The bidding criteria and process should be as clearly defined and transparent as possible, and ILECs and CETCs must be held accountable for achieving measurable universal service objectives. And a “winner gets more” approach is superior to “winner take all” – to avoid precluding competition and returning to a monopoly status quo.

All auction participants should be required to comply with real and meaningful “provider of last resort” obligations. As part of this obligation, all ETCs must be required to provide service to all requesting customers within the bid area at standard installation rates. ETCs should not be allowed to impose additional fees for “aid to construction,” line maintenance or line extensions. These additional fees can be used by ETCs to hide the fact that they either cannot or do not want to provide universal service to all requesting consumers in the service area. Carriers that do not operate using their own facilities – *i.e.*, carriers that depend on ILEC network elements or resale of ILEC services – should not be allowed to bid. However, auction participants should not be required to operate as legacy ILECs – *e.g.*, submit to rate regulation, tariff review, wireline-oriented technology requirements, etc. – as a precondition to bidding.

⁴ CTIA Reply Comments, Nov. 8, 2006, at 3; Attachment (“Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions,” J Stegeman, S. Parsons, R. Frieden & M. Wilson) at 3-4; PN, ¶ 3 & n.10.

DTS proposes to supplement the CTIA “winner takes more” reverse auction proposal with an added “bid to zero” incentive. Many low-cost areas currently receive unnecessary support. DTS’ analysis shows that over 36% of the USF high cost fund goes to lines that receive less than \$10 per line, per month. Most ETCs could provide perfectly adequate service to many of these supported lines with zero support. Although a disaggregating approach may help (as discussed below), DTS believes the entire fund could be reduced by giving winning bidders incentives to reduce their bids to zero for serving relatively low-cost areas that currently receive support. Specifically, in a “winner takes more” system as suggested by CTIA, if an auction participant offers a zero bid to serve a particular area, that ETC could receive an incentive payment (*e.g.*, 50%, or some other percentage, of the difference between the current per-line support amount and zero) per line served in such areas for a limited period of time (*e.g.*, one or two years). Other ETCs bidding more than zero would receive zero support. This would encourage bidders to bring the support amounts down to zero in relatively low-cost areas that currently receive support, while targeting support for serving consumers in truly rural, high-cost areas.

2. Disaggregation of Support And the Geographic Scope of Areas to be Auctioned. DTS strongly agrees with Embarq, CTIA, and other parties who have argued that the USF should target support to the highest-cost areas on a granular, geographically disaggregated basis. The purpose of universal service is to facilitate service to consumers in high-cost areas – not to create unnecessary funding streams for carriers that serve low-cost as well as high-cost areas. A policy favoring a granular approach to geographic Disaggregation should apply to designing the geographic scope of the area to be auctioned in the context of reverse auctions (PN, ¶ 4), and

should also apply in the event a cost model or other methodology is used to define the level of support (PN, ¶ 6).

One of the main drivers for the rapid growth of the federal USF is the enormous increase in lines being filed for support (both ILEC and CETC) in areas where support is available, but the costs of providing service are not particularly high. As Embarq has pointed out,⁵ within any given exchange, the cost of service are much higher in outlying areas than in town centers. Yet all of the federal USF mechanisms disburse support averaged at least across an ILEC exchange or wire center, and in many cases averaged across a much larger area.⁶ And none of these mechanisms take into account the fact that many areas are “uncertificated” and are not part of any ILEC exchange. Earlier incentives for disaggregating support have not been successful (*see* PN, ¶ 5 & n.17). As a result, most of the increase in lines is occurring in areas where the per line support would go to a zero if a granular approach to targeting support were adopted.

DTS recommends the FCC adopt rules that ensure a reasonable level of support for service to people in high-cost areas while encouraging competition and cost efficiency at a granular level. USF support should be focused on the highest cost and most sparsely populated areas. In particular, we offer the following specific recommendations:

1. Include uncertificated geographic areas in the reverse auction process. Allow all ETCs to bid on geographic areas where there is no incumbent telephone company. Do not require any ILEC-oriented requirements or certifications by the state or FCC beyond meeting ETC requirements, including the carrier of last resort obligations discussed above, to bid and receive funding. If the state will not

⁵ *See, e.g.*, USF Reform Proposal, Dr. Brian Staihr, Regulatory Economist, Embarq, filed Feb. 2, 2007.

⁶ The HCL, LSS, and ICLS funds disburse an averaged level of support to rural ILECs’ “study areas” for the “overwhelming majority” of rural ILECs that have chosen not to disaggregate support – and most “study areas” include multiple wire centers/exchanges. IAS support is disbursed at the higher level of large ILECs’ “UNE Zones.” And HCM support is withheld from most states based on a statewide average of forward-looking costs.

accept jurisdiction to certify ETCs in uncertificated areas without additional burdens, the FCC should step in and provide such certifications.

2. The geographic area defining bids for uncertificated areas in a reverse auction should be no larger than by county.
3. Disaggregate down to the sub-wire center level. For example, the Commission could adopt an approach similar to the disaggregation plan used by Valor Telephone in Texas where they split each exchange into two parts, zone 1 and zone 2. Zone 1 includes area within the incorporated areas of towns or cities within the exchange and Zone 2 includes all parts of the exchange outside of those incorporated areas. If an exchange does not have an incorporated town or city then the whole exchange is Zone 2.

3. Affordability. The principle of affordability should play a greater role in the design of the high-cost universal service support system. Many of the people in areas with USF support currently pay lower rates than their urban counterparts. DTS recommends the development of rules to ensure fair and affordable rates to rural consumers, while encouraging competition and cost efficiency at a granular level. Specifically, a reverse auction system or other high-cost support system should include sensible affordability benchmarks and retail rate requirements, based on the average rates people pay in non-supported areas for voice, broadband and the bundle of voice and broadband, over different technology platforms. If differences in demographics are a concern for affordability, then the system could take into account an analysis of average rates on a percentage of income basis, and could apply affordability benchmarks that are adjusted based on average income in a particular county.

DTS emphasizes that this approach would not require regulators to interfere with how ETCs price or package their services. Rather, the high-cost system would apply their benchmark requirements (maximums) based on customer revenue divided by lines for the three broadly defined categories (voice only, broadband only and bundled voice and broadband). This mechanism, combined with the continuation of Lifeline and Link-Up programs to assist people with lower incomes, should enable high-cost support to ensure a fair retail rate in supported areas. In addition, as noted above, ETCs receiving high-cost support should not be allowed to impose additional fees for “aid to construction,” line maintenance or line extensions, beyond their standard installation fees.

Respectfully submitted,

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