Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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

To: Federal-State Joint Board on Universal Service

COMMENTS OF CENTURYTEL, INC.

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EXECUTIVE SUMMARY

For the reasons explained below and in its prior pleadings in these proceedings, CenturyTel supports the Joint Board's recommendations to modify the support distribution method for competitive eligible telecommunications carriers ("CETCs").[1] CenturyTel believes the questions posed in the *May 1 Public Notice* were intended to ensure the long-term sufficiency and predictability of high-cost universal service support, to achieve the program's intended purpose of ensuring that all Americans have access to reasonably comparable and affordable telecommunications and information services, including advanced services, regardless of where they live.[2]

In its initial recommendation, the Joint Board has correctly identified the cause of the runaway growth of the fund in the present CETC support program, and recommended the proper steps needed to gain control of the funding process before other reforms take place. CenturyTel supports controlling the overall size of the universal service program through the interim cap on the funding paid to CETCs. This step alone will prevent the Universal Service Program from growing by approximately $300 million over the next 12 months. At the same time CenturyTel urges the Joint Board to address some of the foundational issues needed to stabilize Universal Service while focusing on measures that modernize the fund in order to achieve the broader goal of promoting the deployment of advanced services in rural America.

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1 *Federal-State Joint Board on Universal Service*, Recommended Decision, WC Docket No. 05-337, CC Docket No. 96-45, FCC 07J-1 (rel. May 1, 2007) (the "*Recommended Decision*").

2 47 U.S.C. §254(b). *See also* Telecommunications Act of 1996, §706.

In addition to supporting rational limits on CETC support, CenturyTel comments on the proposals for reverse auctions, cost modeling, and other approaches suggested in comments and testimony to the Joint Board. While there are a wide range of topics raised in this proceeding, discrete changes to the present universal service system offer the greatest promise for predictable and sustainable reform. Universal service requires thoughtful reform, executed in stages. CenturyTel does not believe that reverse auctions or other new methodologies for awarding support or sizing the fund, which depart from cost-based principles, can ensure that funding is either predictable or sufficient to ensure that the purpose of the fund is achieved, as required by the Communications Act. Although the present system is flawed, it can be improved without a radical facelift that would jeopardize the core beneficial goals of the universal service program.

To ensure that the universal service program is sufficient to meet the evolving needs of rural consumers, including access to advanced services, the Joint Board's recommendations must include strong investment incentives for rural areas. The building blocks must be greater predictability for carriers serving these areas, sufficient support to meet the real costs and regulatory obligations of these carriers, and specificity in the support of networks – the entire network – used to deliver advanced telecommunications and information services to rural communities. Rather than discard the current universal service framework as suggested by many of the prevailing proposals, focused initiatives aimed at fixing the pressing problems with universal service are required.

Specifically, the Joint Board should recommend:

- That the FCC take immediate action to expand the contribution base for universal service to include all service providers that use our national telecommunications infrastructure, now and in the future.
- That excess CETC funding made available by eliminating multiple supported CETCs in a market be used to fund broadband deployment in unserved and underserved areas.
- That the entire rural network be supported, including when it is used for advanced services. This means ensuring both adequate cost recovery rules and support for broadband plant investment needed to link rural communities to the Internet.
- That CMRS CETC funding be structured in a separate, capped mobility program with its own distribution mechanism, and that only a single mobile wireless CETC be supported in any given market.
- That targeted reform measures be designed to spur investment needed to rehabilitate telephone plant in acquired markets, and make it easier for providers to predict support over time as they deploy networks with long asset lives.

Through such reforms the Joint Board can encourage meaningful network investment in rural America to meet the long-term needs of rural communities. At the same time, these reforms will promote accountability and reduce waste in the federal high-cost funding mechanisms.

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CenturyTel, Inc., on behalf of its operating affiliates ("CenturyTel"), hereby responds to the Joint Board's *May 1 Public Notice* on long-term, comprehensive reform of the high-cost universal service support mechanisms.[3]

I. INTRODUCTION

In these comments CenturyTel proposes a specific plan that will curb the excesses in current funding, bring greater predictability of support to carriers serving rural and high-cost areas, ensure support is sufficient to meet the real costs incurred in serving these areas, and improve specificity in the support of the networks that are used to deliver advanced telecommunications and information services to rural communities. CenturyTel believes its proposal serves the goals of the Communications Act of 1934, as amended (the "Communications Act" or the "Act") that support be specific, predictable and sufficient to

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[3] *Federal-State Joint Board on Universal Service Seeks Comment on Long Term, Comprehensive High-Cost Universal Service Reform,* FCC Public Notice, WC Docket No. 05-337, CC Docket No. 96-45, FCC 07J-2 (rel. May 1, 2007) (the "*May 1 Public Notice*").

preserve and advance universal service.[4] CenturyTel believes these goals can be furthered by the Joint Board with a plan for the future that does not discard the gains that have been achieved to date in bringing the benefits of quality services at affordable rates to all regions of the Nation.

II. EXPANDING THE UNIVERSAL SERVICE CONTRIBUTION BASE WILL STABILIZE THE FUND AND ENABLE OTHER IMPROVEMENTS AND REFORMS

Modification of the contribution rules is a pressing aspect of universal service funding today, and must be addressed by the FCC before any other reforms. With the current contribution factor at 11.7%,[5] immediate action is required to stabilize the funding base for universal service. The Commission has acknowledged that the current funding base is contracting, even while demand for support is expanding.[6] The decrease in interstate wireline long-distance minutes (due to the increase in the use of voice over Internet protocol ("VoIP") traffic, commercial mobile radio services ("CMRS"), and other market shifts) has irrevocably changed the funding base.[7] It is critical that the contribution base be expanded and stabilized without further delay, to ensure sufficient funding will be available to fulfill the Communications Act's mandates.

CenturyTel supports the recommendation that "all carriers that utilize the public switched telephone network [("PSTN")] be required to contribute to the USF as soon as

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4 47 U.S.C. §254(b)(5).

5 *Proposed Second Quarter 2007 Universal Service Contribution Factor*, FCC Public Notice, CC Docket No. 96-45, DA 07-1330 (OMD rel. Mar. 15, 2007).

6 *See* Holistically Integrated Package for Universal Service ("HIP") proposed by former Joint Board Member Robert Nelson, *Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 05J-1, at 18 (rel. Aug. 17, 2005) ("*August 2005 Public Notice*").

7 *August 2005 Public Notice* at 18.

possible."[8] It is the Commission's own policy that universal service should be administered in a competitively-neutral, technology-neutral manner,[9] so distinctions between CMRS and wireline service, and between digital subscriber line ("DSL") and cable modem, should be eliminated.[10] IP-enabled services and wireless services are very much dependent on the availability of a ubiquitous PSTN. CMRS providers typically rely on the PSTN for backhaul between different parts of their networks. At a more fundamental level, all interconnected service providers, including CMRS carriers and cable telephony providers, benefit from their ability to deliver calls to and receive calls from PSTN customers. The only equitable, non-discriminatory and technology-neutral rule for contributions that will produce a sufficient base of support is to require *all* service providers who benefit from the ubiquity of the PSTN to begin immediately to contribute to its support.

Any new rules also should be clear and simple to administer. Legal uncertainty about the treatment of new technologies under today's rules has contributed to the declining base of support. The obligation to contribute should be a bright-line rule, and the rule should be enforceable without extensive FCC audits. It should not be based on criteria, such as an

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8 *Id*.

9 *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, at ¶ 47 (rel. May 8, 1997) ("*May 1997 Report & Order*") ("competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another").

10 Some argue that cable or certain VoIP providers should not be required to contribute unless they also receive support. However, eligibility to receive support never has been a criterion for the obligation to pay into the fund. *See Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, Report and Order, 13 FCC Rcd 5318, ¶ 263 (1997) (requiring interexchange carriers and other providers not eligible to receive universal service support to, nevertheless, contribute to universal service).

interstate-intrastate jurisdictional revenue split, or bandwidth or throughput speeds, that can be manipulated by the contributor.

For this reason, a number of parties have advocated changing from a revenue-based contribution methodology to a hybrid numbers-based or connections-based methodology. Contributors would simply count the number of customers connected to a working telephone number, IP address, or the equivalent, and contribute based on a multiple of that number. Assessments on special access circuits and dedicated Internet access connections could fall under this methodology, but may require additional contribution rules. Such an approach has merit provided: (i) the rules are clear and enforceable; (ii) the obligation is inclusive, encompassing all technologies and all users of the PSTN in a competitively-neutral manner, with no special exceptions based on technology or uncertain regulatory status; and (iii) the obligation evolves with technology, so if, for example, IP addresses replace telephone numbers in the market, the contribution base would be preserved.

Assuming the FCC's rules keep pace with technological developments in the market, the approach described above could be simpler and produce a broader base of contributors than the current system. In order to succeed, however, the new rules must not unduly burden residential users and economically disadvantaged areas. Thus, users of very high-capacity circuits should contribute more – because they use the PSTN more – than users of simple voice-grade circuits or residential Internet access connections. CenturyTel therefore supports a hybrid numbers / connections-based approach to fund universal service programs. In this way, the contribution base can be stabilized without creating a regressive burden on residential customers and rural communities.

III. CREATING A SEPARATE MOBILITY PROGRAM FOR CETC SUPPORT COULD BRING MUCH-NEEDED STABILITY TO UNIVERSAL SERVICE

Listening to this debate for the first time, an outsider might wonder how we ever got to this point: CETCs receive support not based on their proven investment in a market, but based only on their promise to invest in the future; CETCs receive support in the form of an entitlement based not on their own costs but on the costs of the ILEC; an unlimited number of CETCs may be supported in any market, regardless of the amount of support being awarded per "line;" the CETC may be supported for an unlimited number of "lines" per household; and the support awarded to CETCs is unrelated to need – support that was designated as "access revenue replacement" is awarded to CETCs though they never had any access revenues to begin with. Moreover, while the support is intended to ensure residents have access to quality local service at affordable rates, there is no assurance that either the service quality or the rates of the CETC are being monitored. At the same time, many CETCs have argued for less state oversight through the elimination of regulations designed to protect consumers and promote competition.[11] All of the above has resulted in public policy gone awry, and an upside-down business model for CMRS carriers and local exchange carriers ("LECs").

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[11] Section 332(c)(1) classified commercial mobile service providers as common carriers subject to all of the requirements of carriers under the Communications Act except those that the FCC determines are inapplicable, but the Commission may not specify that a provision is inapplicable if it is necessary for the protection of consumers. *See* 47 U.S.C. §332(c)(1)(A)(ii). Similarly, states are preempted from regulating rates and entry of CMRS providers but not from regulating the "other terms and conditions" of CMRS offerings. 47 U.S.C. §332(c)((3). However, CMRS carriers have systematically resisted attempts to regulate their customer contracts and billing practices. *See, e.g.*, Sarmad Ali, *The 10 Biggest Problems With Wireless and How to Fix Them*, WALL ST. J., Oct. 23, 2006, at R1.

In many rural areas, the public interest is best served by a single provider receiving government support,[12] yet multiple CETCs are being funded whether they use the money to advance universal service or not. Between 2000 and 2007, CETCs, most of them CMRS carriers, have received more than $ 3.5 billion in cumulative funding.[13] Yet CMRS carriers continue to lag behind the wireline industry on whose costs their support is based. Many important consumer protection and public interest obligations remain unfulfilled in many markets, including compliance with the FCC's E-911 mandates, improvements in call completion and quality-of-service, and resolution of customer billing complaints.

Capping or freezing CETC support at last year's levels is a sensible interim measure to control growth in the overall high-cost program. Given the present rate of growth in CETC funding, the interim cap will keep the fund from growing an additional $300 million in 2007.[14] There are also a number of long-term measures that also should be taken, and are relatively easy to adopt, to ensure funding is used for the purpose for which it is intended, and

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[12] In March 2003, Chairman Martin reiterated his past and continued concerns with the use of universal service high-cost funds to support competition and multiple ETCs in rural areas:

> When the FCC adopted its MAG order, I publicly questioned the use of universal service support as a means of creating "competition" in high cost areas. In expressing this concern, I questioned the wisdom of a policy that subsidized multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. I also warned that this policy may make it difficult for any one carrier to achieve economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning service fund. *Recent data appears to verify the urgency of this issue*.

Remarks by Kevin J. Martin, Federal Communications Commission, to the Santa Fe Conference of the Center for Public Utilities Advisory Council, Santa Fe, New Mexico, March 18, 2003.

[13] This estimate is based on USAC figures for 2000 through 2007; the 2007 figure is projected based on the first three quarters annualized.

[14] Estimate based on USAC projections for the first three quarters of 2007 annualized.

which will have the ancillary effect of benefiting the country with a smaller fund over time. In particular:

- CETC support for CMRS carriers should be segregated and capped, as the total amount of high-cost support available to incumbent LECs ("ILECs") has been capped for years.[15]

- The proposed CETC mobility program should be reduced by eliminating ICLS, IAS and LSS funding for CETCs who never relied on access revenues to begin with – namely CMRS carriers.

- After implementing the cap and one-time reduction described above, the overall size of the CETC fund should increase based only on inflation, just as the ILEC support should be sized.[16]

- No more than one CMRS provider per market should receive support.

- Rational limits should be set on the number of mobile handsets supported per household as well.

- The "same support" rule should be eliminated, and each CETC seeking support should be required to justify that support based on its own costs, meaning its *past* investment and expenses, as ILECs are required to do today.

- In the absence of CETC cost data, an auction among CETCs competing for support in the same market could be utilized.

- The Commission should revisit the criteria for CETC eligibility, apply additional public interest protections, and consider making the CETC designation guidelines mandatory.

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15 CenturyTel notes that virtually all of the CETC support paid in its rural study areas is paid to CMRS carriers. To the extent other CETCs receive support, their support also should be capped.

16 CenturyTel has noted that the current rural high-cost fund rules actually reduce support for ILECs due to line loss. CenturyTel has proposed that the, where lines are declining, yet the network still needs to be maintained, a more sensible approach would be to allow the fund to be indexed for inflation only, and eliminate the negative effect of line loss. *See, e.g.*, Letter from Karen Brinkmann, Counsel to CenturyTel, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Dockets 96-45 and 01-92 (filed Jan. 19, 2006); Reply Comments of CenturyTel, Inc., *Developing a Unified Intercarrier Compensation Regime*, CC Docket 01-92 (filed July 20, 2005) at 25-27.

- Regulatory parity among all USF recipients should be a logical outcome of the reform process. Requirements for all ETCs should include comparable requirements for "affordable" rates (however the state defines them), availability of E-911, service quality standards, billing and customer service practices, and network reliability and restoration capabilities. If a carrier is not willing to act as the area's "carrier of last resort" ("COLR"), providing connectivity to critical services at levels deemed acceptable by the state and the FCC, then awarding support to that carrier for its service to that customer truly is an abuse of the universal service program.

IV. THE CALCULATION AND DISTRIBUTION OF UNIVERSAL SERVICE SHOULD REMAIN COST-BASED

The measures advocated by CenturyTel to bring CETC funding within reasonable parameters should result in a significant savings to the universal service program. It is now widely understood that is growth in CETC support – principally paid to CMRS carriers – that is the chief source of growth in the fund. CenturyTel estimates that, in the absence of the cap recommended by the Joint Board (freezing CETC support at 2006 levels), approximately $300 million more would be paid to CETCs in 2007 alone.[17] In addition, AT&T estimates that merely reducing available ICLS, IAS and LSS funding for CETCs by 25 percent, will reduce the fund by $130 million per year.[18] The Joint Board should evaluate the full benefits of such incremental reforms before recommending more radical and unproven changes to the existing high-cost funding for ILECs. In particular, cost-based methodologies historically have helped ILECs obtain specific, predictable and sufficient support necessary to ensure all regions of the country have access to quality services, comparable to those available in urban areas, at affordable rates.

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17 *See supra* Section III, pp. 6-7 & n. 15.

18 AT&T points out that this figure would be about $520 million per year if all of this access replacement support were eliminated for CETCs. *See* Letter from Robert W. Quinn, Jr., AT&T Services, Inc., to Commissioner Deborah Taylor Tate, Federal Communications Commission, and Commissioner Ray Baum, Oregon Public Service Commission, WC Docket No. 05-337, CC Docket No. 96-45, at 11 (filed Mar. 22, 2007).

As the Joint Board considers how to build a strong foundation for the next challenge for this program – bringing advanced services to rural areas – it is worthwhile to remember that the universal service program has been a true success story for the vast majority of Americans. Rather than radical surgery, the program needs shoring up for the future evolution in telecommunications networks and services. Further reforms should focus on maximizing the country's core telecommunications infrastructure and investment to deliver the services of the future.

A. Universal Service Is An American Success Story.

The benefits of the present universal service system are very real for rural communities, the poor, and the users of rural health care services, schools and libraries. Reform initiatives must be targeted with defined outcomes so that no harm is done to these entities or the core networks that transport the nation's telecommunications traffic.

Despite the attempt by some to frame these important issues as "wireless vs. wireline" competitive quarrels, the future of universal service is really about what essential services we want our national telecommunications infrastructure to support for our economy, our society, and for the next generation. As one of the largest service providers specializing in service to rural America, CenturyTel has long advocated that federal high-cost support programs be tailored to ensure that support is used for the purpose for which it is intended under the Communications Act. CenturyTel believes the core question before the Joint Board and the FCC is how to adjust the present support system to foster increasingly robust broadband networks for the future needs of the nation.

The challenge faced today is to stabilize the present fund to support core services and networks while transitioning needed support for the services of the future. Recognition must be given to incumbent LECs who have successfully overcome lower density service areas, greater distances, rugged terrain, lower *per-capita* income levels, aging populations, and other challenges to deliver innovative and high quality wireline, wireless and satellite-based service solutions—all with an unrivaled customer focus. In many cases this includes innovative IP-based services, multi-channel video platforms, and Wi-Fi broadband solutions.

It is no accident that today nearly all Americans enjoy access to the highest-quality voice service in the world,[19] and 79 percent of households nationwide have access to broadband services provided by the ILEC.[20] CenturyTel is offering broadband services to over 70 percent of its customers at speeds up to 10 mbps. Some ILECs have been able to make broadband available to over 90 percent of the households they serve.[21] These accomplishments

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19 Currently the FCC estimates universal service at about 93% availability. *See* Telephone Subscribership in the United States (Data Through November 2006), Alexander Belinfante, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission (May 2007), at Table 1.

20 *High-Speed Services for Internet Access: Status as of June 30, 2006*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, at 3 (Jan. 2007).

21 *See, e.g.*, Reply Comments of the Independent Telephone & Telecommunications Alliance to the Petitions to Deny, *Applications Filed for the Transfer of Certain Spectrum Licenses and Section 214 Authorizations in the States of Maine, New Hampshire, and Vermont from Verizon Communications Inc. and its Subsidiaries to FairPoint Communications, Inc.*, WC Docket No. 07-22, at 3 (filed May 14, 2007) (noting that Madison River's network, now owned by CenturyTel, is nearly 100% broadband-enabled and that DSL is available to approximately 83% of TDS's ILEC access lines); Opposition of FairPoint Communications, Inc. and Verizon to Petitions to Deny, *Applications Filed for the Transfer of Certain Spectrum Licenses and Section 214 Authorizations in the States of Maine, New Hampshire, and Vermont from Verizon Communications Inc. and its Subsidiaries to FairPoint Communications, Inc.*, WC

are the direct result of consistent and disciplined investment by the telephone industry over the decades, and regulatory policies that closed the service gap between Americans who can and cannot afford high-quality service. That success now must be extended to telecommunications services that will be delivered via robust networks evolving to accommodate high-speed data, video and other applications.

It is not yet known what it will cost to extend broadband to the remaining 15 to 25 percent of U.S. households that don't yet have access to it. The Joint Board must consider which entities are best positioned to maintain and rapidly expand broadband network capabilities to serve those Americans, and ensure they have service that is both affordable and comparable to what is available in urban markets.[22]

B. Reverse Auctions: Reconciling Economic Theory with Consumer Benefit.

1. Auctions Should Be Employed Where They Will Serve The Public Interest.

As stated in its previous comments, CenturyTel believes thrusting support for the PSTN into a reverse auction could have perverse results for rural and high-cost communities, driving down the quality of service and even leaving customers without service.[23] However, CenturyTel could support testing competitive bidding for universal service on a limited basis, in two types of markets.

Docket No. 07-22 *et al.* at 3 (filed May 4, 2007) (noting that 92% of FairPoint's customers in its rural New England exchanges have access to broadband today).

22 *See* 47 U.S.C. §§254(b)(2), (3).

23 Comments of CenturyTel, Inc., *Federal-State Joint Board on Universal Service, Merits of Using Auctions to Determine High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337 (filed Oct. 10, 2006) ("October 2006 Comments of CenturyTel").

First, in markets in which there are multiple CMRS carriers seeking support, auctions may be a useful tool for selecting a single CMRS CETC per market. In such case, funding would be separately awarded to the ILEC based on its costs (as it is today), and awarded to the CETC on the basis of the auction conducted by the state along the lines set forth in the Joint Board's discussion proposal.[24] This bifurcation of the funding process could help the Joint Board achieve its stated goals of minimizing the burdens of the fund on consumers and reducing fund growth, without putting universal service or network infrastructure at risk, and without infringing on the states' statutory role.

Second, today a number of states have isolated, sparsely populated places that are not served by any telecommunications carrier. In such areas, due to great distances, rough terrain, or scarcity of customers, the authorized telecommunications carriers may not have deployed any facilities because no customer was willing or able to order service at the tariffed line extension rates (or CMRS tower construction costs).[25] Ironically, when these customers petition a state commission or legislature for telephone service, it is normally the regulated ILEC that is asked to perform the build out to reach the area. The "same support" rule works a truly perverse effect in such a case. The wireless provider has no incentive be the first to serve the customer or take on COLR obligations, because it would receive support based only on the

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[24] *See Federal-State Joint Board on Universal Service Seeks Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, WC Docket No. 05-337, FCC 06J-1 (rel. Aug. 11, 2006) ("*Reverse Auctions Public Notice*").

[25] For example, although GTE (later Verizon) had statewide authority to serve as the COLR in Hawaii, including authority to serve the areas known as the Hawaiian Home Lands, the Commission found it was not in fact providing service in some locations at the time an alternative carrier requested a waiver to obtain rural high-cost support. *See Sandwich Isles Communications, Inc., Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary and Sections 36.611 and 69.2(hh) of the Commission's Rules,* Order, DA 05-1355 (rel. May 16, 2005), *recon. pending,* at 21.

ILEC's *average* per-line costs. In contrast, if the CETC waits until the ILEC makes the necessary investment, which in such a market may be considerable, and then the CETC can subsequently enter the area and collect universal service support based on a level of investment it never made. Conducting a reverse auction to determine a single least-cost provider in such circumstances may be a worthwhile experiment for obtaining universal coverage of telecommunications networks. Using auctions to choose a carrier for an unserved customer would displace no current provider (so there would be no risk of unrecovered investment), would avoid duplicating support in markets that cannot sustain even one carrier today, and consumers would not risk being worse off than they were before the auction.

2. Auctions Should Not Be Used Merely As a Tool To Reduce Spending On Our National Telecommunications Infrastructure.

The Joint Board must determine first and foremost if the quality, reliability, availability and affordability of telecom services that Americans enjoy today are indeed worth maintaining and expanding. The Joint Board must consider the positive consumer outcomes under the present system. For the most part, local rates have remained constant (accounting for inflation), thanks to the availability of explicit and predictable universal service support. New technologies are driving evolving network investment strategies and meaningful innovation in the way ILEC networks are used. Consumer and business demand for increased speed and capacity for entertainment and data traffic are placing new demands on fiber and other ILEC network elements which are transporting wireline and wireless traffic in and out of rural markets at increasing rates. Assuming all of these outcomes are worthy, policy-makers should be careful not to derail broadband telecommunications infrastructure development to solve a financial

problem that can much more easily and safely be addressed through the targeted measures described above.[26]

From an economics and cost perspective, the ILEC is in a very different position from the CETC. The FCC and states have been auditing ILECs' costs and monitoring their quality of service for decades, and require ILECs to follow detailed cost-accounting rules, provide service quality at prescribed levels, and ensure their networks are highly reliable and with redundant capabilities. The benefit of such intensive regulation is that the ILECs have made the necessary investment that ensures all Americans have access to comparable services at comparable rates, regardless of differences in cost. Auctioning support among ILECs and their largely unregulated competitors threatens the underlying network that CETCs and rural consumers depend on.

In 1997 the Commission identified several potential problems that may be associated with an auction mechanism.[27] For example, rules or restrictions may need to be imposed to prevent collusion between bidders and to prevent excessively low bids to drive out competitors.[28] The Commission also raised the need for additional quality of service standards where support levels were set by competitive bidding.[29] Intending to address these issues in a further proceeding, the Commission has not subsequently explored the concept in detail except in the tribal lands proceeding.[30] In that proceeding, the Commission sought comment on using

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26 *See supra* Section III.

27 *May 1997 Report & Order, supra,* ¶ 324 & n. 819.

28 *Id.*

29 *Id.*

30 *See Reverse Auctions Public Notice, supra,* ¶¶ 3, 14. *See also Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas,* CC Docket No. 96-45, Further

auctions to promote subscribership and infrastructure deployment on tribal lands, but ultimately did not adopt that approach.[31] The Joint Board again raised this issue in 2003.[32] The record developed in response to that inquiry reiterated the many difficulties and risks of an auction approach.

The conclusion that a competitive bidding mechanism applied to all carriers in a market would have limited utility remains equally compelling today, and the same troubling questions warrant thorough consideration once again. In light of the Act's goals of preserving and advancing universal service, and ensuring all Americans have access to quality services, including advanced services, at comparable and affordable rates, CenturyTel identified the following issues that would have to be addressed before implementing an auction mechanism:

- What are the long term goals for the deployment of advanced services in rural areas?
- What impact will auctions have on investment in rural areas?
- How will communications services in rural areas remain affordable?
- Are there better ways to limit the growth of the universal service fund than an auction process?
- Will competition for rural consumers manifest itself in such a way that universal service principles can be fulfilled?

Notice of Proposed Rulemaking, 14 FCC Rcd 21177, ¶¶ 93-114 (1999); *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208 (2000).

31 *Id.*

32 *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support ant the ETC Designation Process*, CC Docket No. 96-45, Public Notice, 18 F.C.C.Rcd 1941 ¶ 20 (2003).

- Will winning bidders be required to honor the social contracts associated with universal service and investment or face the risk of stranded investment that will be applied to incumbents?[33]

None of these questions appear to be addressed by any of the pending proposals on competitive bidding. Instead, the goal of the proponents appears to be simply reducing the size of the fund. Even assuming this is a legitimate goal, competitive bidding is not the best way to achieve it. If the goal is limiting the amount of support or the number of recipients in a market, a far more direct method is available in the CETC designation process today, with far less risk to consumers, as described in Section III above.

Additionally, if the Joint Board's goal is ensuring that service is cost-effective, a competitive bidding mechanism applied to all carriers misses the mark. Rural customers today rely on practically ubiquitous ILEC networks, even where they obtain services from carriers other than the ILEC. ILEC networks provide essential transport and termination in rural markets, without which little broadband or wireless service would be available. The ILEC network therefore is the essential prerequisite to *any* provider in rural markets. Mandating competitive bidding for universal service support between various technology platforms and providers in a given market requires policy-makers to engage in an "apples-to-oranges" comparison. The challenge in such an approach would be reconciling a multitude of regulatory, jurisdictional, cost, service, geographic and legal issues among providers.

The essential nature of the ILEC network in rural markets mandates that the ILEC, as the only entity with COLR responsibilities in the market, must continue to receive support at predictable and sufficient levels.[34] In the current environment, where states set service

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[33] Comments of CenturyTel, Inc. in docket 05-337 (filed Oct. 10, 2006).

[34] 47 U.S.C. § 254(b)(5).

standards and local rates, ensuring support is "sufficient" and "predictable" already is complex. Adding a competitive bidding mechanism would increase the difficulty of meeting this statutory mandate, and would make it virtually impossible for an ILEC to engage in long-term network planning or service expansion. Because support levels will vary by auction period and will be determined by the lowest bidder, support would be neither "sufficient" nor "predictable."[35] Incumbent ETCs would be unable to predict from term to term whether or how much universal service support would be available, and it would be difficult to maintain services at affordable levels, let alone expand services to meet future needs of consumers.

In addition, CenturyTel has identified a number of practical difficulties in implementing auctions. Without repeating all of the points CenturyTel made in its October 2006 filing, CenturyTel notes the following as examples of the types of problems not yet solved by any of the pending proposals:

- Determining uniform criteria for the bid. With so much variability between rural markets and between states, it would be administratively difficult to develop national criteria for the area to be served, the services to be offered, the performance criteria, and the rates at which service should be provided.

- Determining the feasibility of the bid. The Commission has recognized that any funding mechanism for rural carriers should "use flexible inputs to accommodate the variation in cost characteristics among rural study areas due to each study areas unique population distribution."[36] How would regulators weigh a superior service at a higher price against a less advanced service offered at a lower price? Moreover, it would be impossible to compare bids of carriers with completely different scale and scope economies – some carriers would bid to serve a single county, while others would only want to serve a larger region. The difficulties of ensuring a fair bidding process are considerable.

- Enforcing performance of the winning bid. New mechanisms would be needed to verify how support is being used, enforce performance standards on

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35 *Universal Service First Report and Order* ¶ 409 (citing to Comments of various parties).

36 *Universal Service First Report and Order* ¶ 255.

> a day-to-day basis, and ensure adequate investment is being made so service will not decline over the long term.[37]

These quandaries do not merely represent challenges for administrators but, more importantly, they suggest the high degree of risk to which consumer welfare could be subjected, if ILEC support – and corresponding COLR obligations – were auctioned off to the lowest bidder. The potential harms to consumers in the event a supported carrier fails to live up to its promises include not only the economic and social harms of not having access to high-quality telecommunications and information services but also potential health and safety threats, such as lack of access to E911 service, or failure of other critical communications links. Even if penalties could be collected from a provider that fails to perform, consumers will have suffered on a daily basis from inadequate service, and it is not at all clear that an alternative provider will be readily available. Much of the damage could take years to repair.[38]

While Verizon has made an effort to resolve some of these issues by proposing a specific auction methodology, Verizon's methodology is designed to minimize the amount of support awarded – that is its sole objective – and fails to ensure that universal service will be preserved (much less advanced) or that service will remain comparable and affordable in high-cost areas.[39] For these reasons, CenturyTel's support of competitive bidding for critical

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37 Comments of CenturyTel, Inc. in docket 05-337, filed October 10, 2006. As discussed in CenturyTel's previous comments and above, under the current system, support is based on an ILEC's proof of its actual costs, which are audited, regulated, and capped. The rules are clear on what costs can be used to justify support. In contrast, in a reverse auction system costs are divorced from the support received. Thus, to ensure that funds were being used for their intended purpose, regulators would have to create enforcement mechanisms based on other criteria.

38 *See Reverse Auctions Public Notice* ¶ 10.

39 *See* Letter from Kathleen Grillo, Vice President, Verizon, to Deborah Taylor Tate, Federal Chair, Federal-State Joint Board on Universal Service, and Ray Baum, State Chair, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC

universal service funding is limited to the two situations discussed above, where consumer welfare would not be at risk.

C. GIS Technology and Network Cost Modeling Are Theoretical; Actual Costs Are Factual.

The record reflects several proposals to depart from allocating support based on the study-area cost of providing affordable services. While these suggestions have some novel aspects, they are similar to proposals for theoretical modeling of costs in rural areas that have been rejected in the past. These new models remain largely untested for determining support in rural markets. It is clear, however, that if these ideas are embraced as part of broader reform, these new modeling processes and assumptions should be thoroughly defined at the outset, not left to be determined at a later date. With the proper understanding of what may constitute a model, and the key assumptions and the inputs associated with such a model, CenturyTel and other carriers could better evaluate whether or not these models would be workable for carriers deploying advanced services in rural markets. More study is needed in this area before a definitive conclusion can be made by the Joint Board.

Specifically, the Joint Board seeks comment on geographic information systems ("GIS") technology and network cost modeling. In the *May 1 Public Notice* the Joint Board asks whether "these tools could be used to identify those areas where competition and market forces alone will not result in the provision of services comparable to those available in more urban areas of the country, and thus where support might be most needed?" As a threshold matter, CenturyTel observes that the premise of the question – that support is needed most where market forces will not ensure comparable services – fails to accurately reflect the rural equation: Market

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Docket No. 96-45 (filed Feb. 9, 2007). CenturyTel will not repeat all of its prior comments here, as the Joint Board has incorporated them into this record. *See May 1 Public Notice* para. 2.

forces already are sufficient to ensure that all areas of the country, even the most rural, will have access to comparable services *at some price point*.[40] The more precise question is whether, whatever those forces, the services will be *comparable* and the price will be *affordable* in all areas of the country.

Turning to the value that modeling tools like GIS offer, there have been few opportunities to see how such tools work in practice, and whether they accurately predict where support is needed. In contrast, there already are examples in the record of cost modeling failing to adequately project either true costs or necessary support levels. CenturyTel suggests that no model is as effective at estimating the cost of serving a rural market as the service provider that actually must incur the cost. Because service providers today feel both regulatory and market pressure to keep costs as low as possible and offer consumers diverse services at the lowest possible rates, they can be expected to incur costs only as necessary to meet consumer demand. The best solution is to define what costs will be supported, and require *all* recipients to demonstrate that they incurred the relevant costs to provide the intended services.

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[40] For example, even in the most remote parts of the country, where neither cable television system operators nor telephone carriers have deployed broadband capability, consumers with the financial resources to do so can obtain a satellite-delivered broadband connection – it may just cost thousands of dollars per year. *See, e.g.,* "Rural America Receives Broadband Web Access With a Satellite Dish," N.Y. TIMES p. C1, C10 (Nov. 14, 2006). Moreover, the FCC reports that consumers in rural markets have on average access to the services of three CMRS providers, in addition to the ILEC. *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services,* 21 FCC Rcd. 10947, ¶¶ 86-88 (2006).

D. Disaggregation of Support Promises Greater Benefits Than It Will Deliver In Most Markets.

To date, disaggregation in rural markets has produced mixed results. Rural ILECs were given the option to disaggregate support, and that experience was instructive.[41] Most categories of costs are accounted for at the study area level by rural ILECs, so deciding where to disaggregate was a time-consuming endeavor. Where disaggregation was implemented, support typically was differentiated between higher-cost and lower-cost zones.

Rural ILECs have had to rely on prevailing industry models such as the HAI or BCPM in deciding where to disaggregate support. The use of such models has sparked a debate over how accurately the results reflect costs. CETCs sometimes allege a low-cost zone warrants more of the support than CenturyTel has proposed be allocated, while other CETCs allege that high-cost zones warrant even more of the support. CenturyTel is caught in the middle of the disaggregation tug-of-war.

Eliminating the "same support" rule and creating a separate mobile CETC program should reduce the need for disaggregation due to the fact that the largest CETCs, CMRS providers, will no longer be receiving support based on ILEC costs.[42] Due to the controversial nature of disaggregation studies, and the amount of resources needed to allocate costs below the

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41 *See Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Fourteenth Report and Order*, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256,16 FCC Rcd 11244, ¶¶ 144-164 (2001) ("*RTF Order*").

42 While CenturyTel has seen CETC filings by CMRS carriers in the vast majority of its study areas, wireline carriers have sought CETC designation only in a few study areas.

study area level using a hypothetical cost model, disaggregation below the study area level should remain optional for rural ILECs.

V. FUNDING ACCESS TO BROADBAND FOR ALL AMERICANS

A. An Evolving Definition of Advanced Telecommunications Capabilities.

The Act requires that consumers across the country have access to advanced telecommunications and information services.[43] As a rural provider, CenturyTel observes that the two primary drivers of evolving broadband services are ever-increasing speed and affordability. Customers also demand services that are reliable, high-quality and uninterrupted—a hallmark of dedicated rural operators that have made substantial infrastructure investments to deliver advanced services. Broadband consumers want services that are fast and versatile, with increasing amounts of bandwidth and the ability to keep pace with the latest content available. For the long-term success of universal service, the Joint Board's recommendations should include establishing principles to ensure a solid foundation for our evolving broadband-based economy.

The first logical step of determining how to support broadband is to properly define what "broadband" and "support for broadband" really mean. CenturyTel urges the Joint Board to develop a set of baseline broadband principles that will guide universal service policies for the next five years. Once the supported broadband service has been defined, the definition needs to be reviewed from time to time in order to keep affordable bandwidth speeds in rural markets comparable to those experienced in urban areas.

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[43] 47 U.S.C. 254(b)(2). *See also* Telecommunications Act of 1996, §706(a).

B. Deployment of Broadband To Unserved and Underserved Communities Is A Priority; Excessive CETC Funding Should Not

The Commission has observed that rate-of-return cost recovery rules and high-cost loop support already have helped ILECs deploy broadband in many previously unserved rural areas.[44] In most areas, existing programs foster meaningful investment and innovation by recipients, and should continue to do so. Despite remarkable success in deploying broadband services in some very rural areas, CenturyTel recognizes the cost of providing such services to the remaining unserved or underserved areas will be an expensive undertaking.

As discussed above, creating a CETC mobility program that reflects support for only one CMRS CETC per market should produce substantial savings. CenturyTel estimates that simply supporting a single wireless CETC instead of multiple CETCs in CenturyTel's markets alone will free up approximately $40 million in universal service to fund broadband deployment.[45] In addition, by capping CETC support at 2006 levels, as recommended by the Joint Board, additional funding of approximately $300 million could be created for broadband

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[44] The Commission already has rejected the notion that a consumer should pay substantially more for DSL and POTS over the same line compared to purchasing only one of the two services using that line. *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities, et al.,* Report an Order and Notice of Proposed Rulemaking, CC Docket Nos. 02-33, 01-337, 95-20, 98-10 and WC Docket Nos. 04-242, 05-271, FCC 05-150, at ¶ 143 (rel. Sep. 23, 2005) ("It would cause a consumer who buys the two services over the same loop to pay much more for that facility than a consumer who buys only narrowband service, even though the cost of that facility is fixed and does not vary in proportion to usage").

[45] This estimate is based on current USAC CETC funding data, assuming the largest CETC remains fully funded (at its current line count level) but all other CETCs in CenturyTel's study areas receive no support.

support.[46] Eliminating access revenue replacement support for CMRS carriers, as discussed above, could save as much as $520 million more per year.[47] As a matter of public policy, deploying broadband service to unserved and underserved rural markets should be a higher priority for the use of these funds than supporting multiple CETCs based on the ILEC's costs.

Most service providers are under relentless pressure to deploy broadband capability to all communities, no matter how small or remote. President Bush has made universal broadband deployment a national priority, stating, "The goal is to be ranked first when it comes to per capita use of broadband technology."[48] Chairman Martin affirmed the Commission's commitment to creating regulatory incentives for deployment of broadband services throughout the country, calling it "my highest priority as the new chairman of the FCC."[49] However, in order to have sufficient capital for the substantial investment required, and to be able to deploy broadband at rates consumers can afford, adequate cost recovery rules and some form of support must be made available.

Broadband support is needed for rural *networks* whether used for plain old telephone service ("POTS") or for advanced services. CenturyTel has particular concerns regarding several categories of costs that are not adequately supported today. First, funding is necessary for the *transport* required to provide advanced telecommunications services to many remote rural areas. Inter-office transport between CenturyTel's local exchange area and the

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46 *See supra* Section III, pp. 6-7.

47 *See supra* Section III, p. 8 and n. 19.

48 Jodi Wilgoren and David E. Sanger, *Bush and Kerry Offer Plans for High-Tech Growth*, N.Y. TIMES, June 25, 2004, at A18.

49 Kevin J. Martin, Editorial, *United States of Broadband*, WALL ST. J., July 7, 2005, at A12.

nearest tandem-switched point of aggregation may be hundreds of miles. Backhaul between the local exchange area and the nearest urban Internet access point may be even farther.[50] None of this transport cost is expressly covered by federal high-cost programs today. If advanced broadband capabilities are to be affordable to rural consumers, as required by the Communications Act, sufficient funding must be provided to help offset the cost drivers for rural service, including transport.

Second, CenturyTel believes that if 100 percent broadband penetration in rural markets is the goal, sufficient, predictable funding will have to be made available over the long term. Many of CenturyTel's exchanges serve only a few hundred customers. From a business perspective, before CenturyTel can justify leasing or building fiber transport to bring broadband Internet access to a small, isolated exchange, the recovery of recurring costs associated with such an undertaking would have to be addressed. CenturyTel believes that the current rules related to loop cost recovery should be improved.

As the industry transitions to a broadband connections-based environment, the Joint Board therefore should consider adoption of proposals to support all network cost components that are vital to providing advanced services to rural communities. CenturyTel believes that there are benefits to creating a separate cost-recovery mechanism for investments in broadband infrastructure. Ultimately, CenturyTel believes separate funding for broadband will produce meaningful results and will not be cost prohibitive. Separate funding will make a significant difference in enabling unserved or underserved rural markets with broadband service.

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[50] This backhaul infrastructure also is relied upon by ISPs, CMRS providers, VoIP providers, and others sending traffic to or receiving traffic from rural customers.

To mitigate pressure on any single funding source, CenturyTel supports solutions which may include a combination of federal funding, low-cost loans from the Department of Agriculture's Rural Utilities Service ("RUS"), federal tax credits, and public-private partnerships. Innovative programs such as Connect Kentucky[51] demonstrate the strength of public-private partnerships in which telecommunications service providers and states collaboratively solve broadband deployment and subscribership challenges associated with servicing low density markets.

CenturyTel believes that a significant portion of the costs of providing broadband to unserved or underserved areas can be reimbursed without dramatically increasing the size of the overall universal service program, with the other targeted cuts suggested above. Such policy changes would spur additional investment and economic growth in rural communities, enabling rural Americans to achieve a higher standard of living through access to broadband.

VI. ADDITIONAL MEASURES TO STABILIZE UNIVERSAL SERVICE PROGRAMS

A. Improving the Safety Valve Mechanism Would Facilitate the Rehabilitation of Acquired Access Lines.

One clear path to benefit many rural consumers, while fostering broadband deployment in underserved rural areas, is to promote expenditures in newly acquired exchanges. The Commission recognized this in creating the "Safety Valve" mechanism for rural carriers acquiring high-cost exchanges.

Targeted reform of the Safety Valve mechanism was proposed by both the Missoula Plan and the Intercarrier Compensation Forum ("ICF"). The ICF specifically endorsed that the reimbursable portion of a buyer's expenses over and above what the seller was spending

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[51] *See* http://www.connectkentucky.org.

should be increased from 50% to 75%, and should include more categories of costs related to rehabilitation of the acquired network, not just a limited category of loop plant expenditures.[52] This change to broaden the availability of support for a greater percentage of rehabilitation expenditures would significantly improve the underutilized Safety Valve fund. The overall cap on the total amount of Safety Valve could remain in place as an assurance that these limited measures would not grossly expand the size of the fund.

B. The Cap On the High-Cost Loop Fund Should Be Corrected For Unintended Consequences Due To Line Loss

The existing cap on the rural high-cost fund needs to be revisited. The current cap on the high-cost loop fund is increased or decreased according to the Rural Growth Factor ("RGF"), which is comprised of rural access line growth (or decline) plus inflation.[53] In recent years, the RGF actually was negative. As a result of the effect of the cap on the total amount of high-cost loop funding for ILECs, the amount of funding for some carriers has *substantially declined or been eliminated altogether*,[54] *despite sharply rising costs* in such critical categories as energy and labor. The shrinking nature of rural high-cost loop support for ILECs reduces the amount of funding available to enable access to advanced services in rural markets. CenturyTel therefore recommends that the Joint Board index the growth of both the existing high-cost loop fund and the proposed CMRS CETC program by the rate of inflation.

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52 ICF Plan at 80-81.

53 *RTF Order* at ¶ 13.

54 *See, e.g.*, Letter from Karen Brinkmann, Counsel to CenturyTel, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, *Ex Parte* Notice in CC Dockets 96-45 and 01-92 (filed Jan. 19, 2006).

Separately, the Joint Board should recommend that high-cost support mechanisms, excluding ICLS and Safety Valve Support, be frozen at the current study area level or on a statewide basis. In an environment where certainty of cash flow may be more desirable than wide fluctuations in cost recovery, such a freeze would help facilitate capital planning and investment over the long term as companies have a better understanding of the funding available to make requisite expenditures.

VII. CONCLUSION

For the foregoing reasons, CenturyTel fully supports efforts to impose reasonable and timely restraints on CETC funding, and to free up funding that is much needed for broadband deployment in the highest-cost areas. The Communications Act demands that support remain specific, predictable and sufficient to preserve the considerable universal service achievements we enjoy today, and to permit access to advanced services as that definition evolves. CenturyTel asks that the Joint Board continue to pursue targeted, incremental reforms as stated above that will (i) stabilize the present universal service system; and (ii) create incentives for rational, broadband-enabling network investment. Careful stewardship of existing resources, and narrow targeting of future resources, will better serve the American public while continuing to foster competitive markets.

Respectfully submitted,

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