Before the
Federal Communications Commission
Washington, D.C. 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

RECOMMENDED DECISION

Reply Comments of the Montana Telecommunications Association
June 13, 2007

I. Introduction

The Montana Telecommunications Association ("MTA") represents rural local exchange carriers ("RLECs") providing affordable, quality essential telephone service as well as advanced telecommunications services to Montana's rural business and residential consumers. In its initial comments, MTA articulated its support for the Joint Board's Recommended Decision to impose "an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers [CETCs] may receive for each state."[1]

II. An Interim Cap Establishes Regulatory Parity

Several initial comments argued that a cap imposed only on CETCs is discriminatory.[2] MTA and others, including the Joint Board, pointed out that caps have been imposed on incumbent local exchange carriers for years. The Joint

[1] *Federal-State Joint Board on Universal Service*. WC Docket No. 05-337, CC Docket 96-45. Recommended Decision. FCC 07-J1. (rel. May 1, 2007) ("Recommended Decision")
[2] The Montana Public Service Commission, for example, asserted that "the interim cap on which the FCC seeks comments is not the same as the cap on rural incumbent local exchange carriers' (ILECs') high cost funds." No further explanation was given. Recommended Decision. Comments of the Montana Public Service Commission. p.2. ("MTPSC")

Board noted that "incumbent LECs' high-cost loop support is already capped and incumbent interstate access support has a targeted limit."[3] Western Telecommunications Alliance ("WTA") provided further elaboration. The universal service fund

> is presently comprised of the following six basic programs: (1) the Schools and Libraries program (capped at $2.25 billion); (2) the rural Health Care program (capped at $400 million); (3) the high-cost support program for rural carriers (of which the High Cost Loop segment has been capped for over ten years); (4) the high-cost support program for non-rural carriers (of which the Interstate Access Support portion has been capped since its implementation); (5) the portable high-cost support program for CETCs (which has never been capped); and (6) the low income customer program (which has never been capped. Put simply, CETCs are the only group of carriers that have never been subject to a cap with respect to any portion of their USF support.[4] (Emphasis added.)

OPASTCO further points out that

> [S]ince July 2001, when these caps were 're-based' by the Commission, rural ILECs have forgone **over $2.5 billion** in federal high-cost support…Thus, any assertions that an interim cap applied only to the support received by competitive ETCs would not be competitively neutral or equitable are simply baseless.[5] (Emphasis in original.)

III. An Interim Cap on CETC Support Will Not Preclude the Flow of USF Support to CETCs

Contrary to some initial comments that the Recommended Decision could "stymie CETC expansion of wireless service,"[6] an interim cap as proposed by the Joint Board would allow continued distribution of universal service support to current and future CETCs. A CETC cap would work much as the current cap on incumbent ETCs. Considering the fact that the identical support rule allows CETCs to receive as much as $200 million of support never intended for CETCs,[7] combined with the fact that CETCs often receive support for multiple

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[3] *Id*. p.4. Referring to 47 C.F.R. Secs. 36.603 and 54.801(a).
[4] Recommended Decision. Comments of Western Telecommunications Alliance ("WTA"). p.2.
[5] Recommended Decision. Comments of OPASTCO. p. 4.
[6] MTPSC. *Op cit*.
[7] See MTA's initial comments, fn.17, p.8.

"lines" per household,[8] it is reasonable to assume that CETCs—particularly on an interim basis—will quickly adjust to life under interim caps, much as incumbent LECs have learned to live under caps imposed on them for years.

IV. Universal Service Is Not Intended to Subsidize Complementary Services in the Name of "Competition"

MTA's initial comments cited FCC Chairman Kevin Martin's concerns about using universal service to subsidize competition for essentially complementary, not competitive, services in high cost areas.

> …[C]urrent Commission policies result in 'the subsidies generated by the Commission's universal service rules now support[ing] multiple wireless networks providing services that for many consumers are effectively a complement, not a substitute, to the service already offered by the subsidized wireline incumbent local exchange carrier.[9]

The National Telecommunications Cooperative Association ("NTCA") cites FCC Commissioner Adelstein's similar sentiments.

> Commissioner Adelstein previously stated the need to balance competition against the public good, stating, "The public interest . . . demands that regulators seriously consider whether a market can support more than one carrier with universal service. If not, then new designations shouldn't be given as a matter of course just because it appears they meet other qualifications."[10]

Universal service is not about competition. The Telecommunications Act specifically places a higher public interest standard for designation of multiple ETCs in rural areas.[11] Further, the Act does not guarantee ETC status to essentially complementary services.[12] As NTCA notes, designation of multiple

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[8] *Ibid*. Citing AT&T's March 22, 2007, *ex parte*: "consumers are in many cases footing the bill to subsidize three or even four wireless ETC lines in the same household…. [O]ver 13% of supported wireless CETC lines are in households that have at least three such lines, and over 8% are in households with *four* such lines." fn.10, p.5.

[9] MTA's initial comments. Citing Chairman Martin's response to Chairman Markey (not dated, but approximate release date of May 14, 2007). p.6.

[10] Recommended Decision. Comments of NTCA. p.10.

[11] 47 U.S.C. 214(e)(2).

[12] Montana Public Service Commission Chairman, Greg Jergeson. Testimony before the Senate Natural Resources and Energy Committee. Montana State Legislature. January 15, 2007.

wireless CETCs "[has] not materially increased the voice penetration rate in U.S. households."[13] Moreover, as the Montana Public Service Commission points out, mobility is not a supported service.[14]

V. Conclusion

MTA urges the FCC immediately to adopt the Joint Board's Recommended Decision, and looks forward to working with the FCC and all parties in developing long-term solutions to the universal service contribution and distribution problems—while the *interim* cap protects consumers from further rate increases and preserves the universal service fund's sustainability.

Respectfully Submitted,

/s/

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"Wireless coverage is still incomplete in some areas and is still **viewed by most people as a complement to, not a substitute for, their home and business wireline services**." (Emphasis added.)

[13] Recommended Decision. NTCA comments. p.2.

[14] MTPSC. *Op cit*. "The MTPSC is aware of the fact that 'mobility' associated with wireless service is not a supported service but it is arguably an advanced service." p.5.