

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

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

To: The Commission

Reply Comments of Missouri RSA No. 5 Partnership d/b/a Chariton Valley Wireless Services and Panhandle Telecommunication Systems, Inc.

Missouri RSA No. 5 Partnership d/b/a Chariton Valley Wireless Services (“Chariton”) and Panhandle Telecommunication Systems, Inc. (“PTSI”), by their attorneys, hereby submit reply comments in response to comments filed pursuant to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.¹ Chariton and PTSI are both Tier III providers of commercial mobile radio service (“CMRS”) serving remote, high cost regions in Missouri and Oklahoma, respectively. Chariton and PTSI are competitive eligible telecommunications carriers (“ETCs”) and use their high cost support to provide robust, mobile telecommunications services to consumers in rural America.

The record in this proceeding indicates that the law requires consumers in rural markets to have the same competitive telecommunications options as consumers in urban

¹ *In re Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 07-88 (rel. May 14, 2007) (“NPRM”); *In re Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (Fed.-Stat Jt. Bd., rel. May 1, 2007) (“*Recommended Decision*”).

markets, and that high cost funding to ETCs should not be arbitrarily and capriciously limited. Specifically, Chariton and Panhandle agree with commenters that support 1) modifications to the Federal-State Joint Board's ("Joint Board") interim cap proposal that will exempt small, rural-based carriers from any such cap; and 2) the use of "current" 2007 support levels to determine the scope of any freeze.

I. The Cap, as Proposed, Harms Rural Consumers

Chariton and PTSI agree with the Rural Telecommunications Group, Inc. ("RTG") that the Commission "should proceed cautiously with any proposed cap in order to avoid unintended harm to the very consumers that high cost universal service is supposed to benefit."² Further, protecting rural consumers is required by law.³ Chariton and PTSI agree with Alltel's conclusion that "[r]ural consumers' increasing access to mobile wireless services, and their choice to use such services, clearly are in the public interest."⁴ Chariton and PTSI provide mobile communications in underserved regions of the country where mobile communications can be a lifeline. For example, Chariton and PTSI serve rural customers such as farmers who need access to communications for business and safety reasons when they are away from their landline connections.

In Chariton's case, it relies upon the receipt of high cost support in order for it to provide location-based, Phase II emergency 911 ("E911") services to its mobile customers. If Chariton's high cost support is reduced, it will be unable to afford the additional cell sites needed to increase the accuracy of its Phase II E911 location information. The Joint Board's proposed cap, if applied to small wireless carriers such as Chariton, will

² RTG Comments at 2.

³ See, e.g., Alltel Comments at 3 and RTG Comments at 2.

⁴ Alltel Comments at 4.

unintentionally harm public safety in rural regions. Small carriers who provide essential mobile services in rural regions should be exempt from any cap, especially since the economic impact on the overall fund from small, rural wireless carriers receiving support is nominal at best.

Chariton and PTSI agree with RTG that, “consistent with Section 254(b)(3) of the Act, small CMRS carriers providing service to rural consumers should continue to receive portable universal service support until the Commission changes its competitive ETC mechanisms.⁵ As suggested by RTG, the FCC should exempt Tier III or “Tier IV” wireless carriers from any cap on high cost support.⁶ Such an exemption would allow small, rural wireless carriers to continue to provide vital mobile services to customers who are choosing wireless services for their convenience and mobility. The Joint Board’s proposed cap ignores this choice. Chariton and PTSI have experienced consumer adoption of mobile services firsthand in the rural communities they serve and, as discussed *infra*, would experience a drastic reduction in needed high cost funding under the proposed cap.

II. Freezing Support at 2006 Levels Is Arbitrary and Capricious

Chariton and PTSI agree with the varied commenters who argue that support should not be frozen at 2006 levels. The Joint Board’s apparent zeal to control the fund should not lead the Commission into making a discriminatory decision to freeze support at retroactive levels. As CTIA noted, the use of 2006 levels is arbitrary and capricious with no rational basis, whatsoever.⁷ Both Chariton and PTSI would receive a substantial reduction in support under a 2006 level cap that would jeopardize their respective plans to

⁵ RTG Comments at 3.

⁶ *Id.*

⁷ CTIA Comments at 28.

provide better coverage and new cell sites for consumers and businesses in underserved areas. Even AT&T, which supports a cap, expressed concern over the need for predictable funding due to the long term capital expenses needed to operate a CMRS network.⁸

Instead of an actual “cap,” the retroactive base period would have the effect of *reducing* all competitive ETCs’ support levels.⁹ Chariton and PTSI agree with Alltel, CTIA, the Rural Independent Competitive Alliance (“RICA”), RTG, and Sprint Nextel that 2007 support levels should be used to calculate any cap on competitive ETC support.¹⁰ Chariton and PTSI support the use of support levels in the most recent full quarter preceding the cap’s effective date.¹¹

⁸ AT&T Comments at 5 and 6.

⁹ CTIA Comments at 28 (emphasis added).

¹⁰ See Alltel Comments at 20, CTIA Comments at 29, RICA Comments at 3, RTG Comments at 4, and Sprint Nextel Comments at 16.

¹¹ See, e.g., CTIA Comments at 29.

III. Conclusion

For the foregoing reasons, Chariton and Panhandle respectfully request that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

**Missouri RSA No. 5 Partnership d/b/a Chariton
Valley Wireless Services and Panhandle
Telecommunication Systems, Inc.**

By: _____/s/_____

Caressa D. Bennet
Kenneth C. Johnson
Bennet & Bennet, PLLC
4350 East West Highway
Suite 201
Bethesda, MD 20814
(202) 371-1500

Its Attorneys

Date: June 13, 2007