

**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
)	

**REPLY COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these reply comments in response to comments on the FCC’s May 14, 2007 Notice of Proposed Rulemaking (NPRM), in the above-captioned proceedings.¹ The NPRM seeks comment on the Federal-State Joint Board on Universal Service’s (Joint Board) recommendation that the Commission impose an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers (ETCs) may receive.²

OPASTCO is a national trade association representing over 520 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than

¹ *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 07-88 (rel. May 14, 2007) (NPRM).

² *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (rel. May 1, 2007) (Recommended Decision).

3.5 million customers. All OPASTCO members are rural telephone companies as defined in 47 U.S.C. §153(37).

The record in this proceeding supports the immediate adoption of the Joint Board's recommended interim cap on the high-cost support provided to competitive ETCs, without alteration. The Commission should reject the arguments of those opposing the Joint Board's recommendation, as they are focused on those parties' short-term self interest rather than the long-term public interest.

II. THE RECORD IN THIS PROCEEDING SUPPORTS THE IMMEDIATE ADOPTION OF THE JOINT BOARD'S RECOMMENDED INTERIM CAP ON HIGH-COST SUPPORT RECEIVED BY COMPETITIVE ETCs, WITHOUT MODIFICATION

The support in the record for an interim cap on the high-cost funding received by competitive ETCs is substantial and diverse, including not only rural and non-rural ILEC interests,³ but state commissions,⁴ consumer advocates,⁵ and competitive LECs.⁶ It is also notable that the Joint Board's proposed interim cap is supported by several wireless carrier interests, including the two largest wireless carriers in the United States, AT&T

³ Valley Telephone Cooperative, Inc. (Valley), p. 3; Blackfoot Telecommunications Group (BTG) p. 1; TCA, Inc. – Telcom Consulting Associates (TCA), p. 2; Telecommunications Association of Michigan (TAM), p. 1; State Independent Telephone Association of Kansas and the Independent Telecommunications Group (SITA & ITG), p. 2; Wisconsin State Telecommunications Association (WSTA), p. 1; Verizon and Verizon Wireless, p. 1; Minnesota Independent Coalition (MIC), p. 1; Western Telecommunications Alliance (WTA), p. 1; Fred Williamson and Associates (FWA), pp. 3-4; AT&T, Inc. (AT&T), p. 2; Independent Telephone and Telecommunications Alliance (ITTA), p. 5; National Telecommunications Cooperative Association (NTCA), p. 1; Iowa Telecommunications Association (ITA), p. 2; Alexicon Telecommunications Consulting (Alexicon), pp. 3-4; Frontier Communications (Frontier), pp. 1-2; Nebraska Rural Independents and the South Dakota Telecommunications Association (the Companies), p. 2; Texas Statewide Telephone Cooperative, Inc. (TSTCI), p. 1; Windstream Communications Inc. (Windstream), p. 1; Alaska Telephone Association (ATA), p. 1; Mid-River Telephone Cooperative, Inc. (MRTC), p. 1; United States Telecom Association (USTelecom), p. 1; TDS Telecommunications Corp. (TDS), p. 1; Embarq Corporation (Embarq), p. 1; CenturyTel, Inc. (CenturyTel), p. 2; Rural Iowa Independent Telephone Association (RIITA), pp. 1.

⁴ Iowa Utilities Board (IUB), p. 1; Public Utilities Commission of Ohio (OH PUC), p. 6; Nebraska Public Service Commission (NPSC), p. 1.

⁵ National Association of State Utility Consumer Advocates (NASUCA), p. 1.

⁶ Rural Independent Competitive Alliance (RICA), p. 1. RICA argues that competitive ETCs that can demonstrate their costs, whether they be wireline or wireless, should be exempt from the interim cap. *Id.*, pp. 3-6.

and Verizon Wireless.⁷ These parties recognize that what is at stake in this proceeding is the continued viability of the High-Cost program that enables rural consumers to enjoy the benefits of affordable, high-quality communications services. In stark contrast are those parties that oppose an interim cap on the support provided to competitive ETCs (mostly wireless carrier interests), who are concerned more with their own short-term interests than they are with the long-term benefits of a sustainable High-Cost program. However, the focus of this proceeding is reining in the rapid growth in the High-Cost program in order to allow the Joint Board and Commission time to consider reforms that will ensure the fund's long-term viability.

Many commenters⁸ agree with the Joint Board's statement that, "...without immediate action to restrain growth in competitive ETC funding, the federal universal service fund is in dire jeopardy of becoming unsustainable."⁹ While the growth in high-cost support for ILECs has remained flat or even declined in recent years,¹⁰ the growth in support for competitive ETCs has exploded. It is this excessive growth in competitive ETC support that is threatening the sustainability of the High-Cost program. Thus, the Joint Board correctly recommended a targeted approach, an interim cap on competitive ETC high-cost support, that will stabilize the program in the short term while the Joint Board and Commission consider long-term reforms.

⁷ Verizon and Verizon Wireless, p. 1; AT&T, p. 2; Rural Telecommunications Group (RTG), p. 1; Unicom, Inc. (Unicom), p. 2.

⁸ *For example*, BTG, p. 1; MIC, p. 1; Verizon and Verizon Wireless, pp. 3-4; SITA & ITG, p. 2; TAM, p. 1; ITA, p. 2; FWA, pp. 3-4.

⁹ Recommended Decision, ¶4.

¹⁰ *Id.*

Wireless carrier arguments that an interim cap on competitive ETC support is not competitively neutral¹¹ generally ignore the fact that the Commission has already imposed caps on the high-cost loop support received by rural ILECs, which have been in place for over 13 years. As Verizon and Verizon Wireless state, these caps were adopted “... for precisely the same reason that the Joint Board now recommends capping competitive ETC support: ‘to limit fund growth and moderate annual fluctuations in the size of the fund pending the Commission’s consideration of permanent changes to the high-cost mechanism.’”¹² In fact, since these caps were “re-based” in July 2001, rural ILECs have lost a substantial amount of federal high-cost support, which FWA effectively illustrates in its comments.¹³ Conversely, since competitive ETCs began receiving high-cost support, their funding has been permitted to grow unfettered as the number of competitive ETCs has grown and as their line counts have grown. BTG is correct when it asserts that, “... an interim emergency cap on CETCs would be a step-towards implementing this Commission’s self-imposed guideline of competitive neutrality by treating incumbent ETCs and CETCs equally—i.e. both types of entities would be subject to caps imposed by the FCC’s universal service rules.”¹⁴

¹¹ Dobson Cellular Systems, Inc. (Dobson), pp. 5-7; CTIA – The Wireless Association (CTIA), pp. 11-13; United States Cellular Corporation and Rural Cellular Corporation (U.S. Cellular and RCC), pp. 24-28; Rural Cellular Association and the Alliance of Rural CMRS Carriers (RCA and ARC), pp. 24-29; SouthernLINC Wireless (SouthernLINC), pp. 6-11; Sprint Nextel Corporation (Sprint Nextel), pp. 6-11.

¹² Verizon and Verizon Wireless, pp. 6-7. (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers*, CC Docket No. 00-256, Report and Order, 16 FCC Rcd 11244, 11260, ¶32 (2001)). See also, USTelecom, p. 4; CenturyTel, p. 2 (noting that “[t]he interim capping mechanism recommended by the Joint Board is nothing new to the universal service program or telephone providers. The high-cost program... is currently capped for ... ILECs, and has been for many years.”).

¹³ FWA, p. 5.

¹⁴ BTG, p. 5.

Suggestions from some wireless carrier interests to impose a cap on the support received by all ETCs,¹⁵ including rural ILECs, should be rejected. Further limiting rural ILECs' high-cost support would seriously threaten these carriers' ability to fulfill their obligations as carriers of last resort, and to continue offering affordable, high-quality communications services throughout their service areas. At greatest risk would be continued service to subscribers in the most remote and highest-cost regions that may not have other reliable service options. In addition, another cap on rural ILEC high-cost funding would jeopardize their ability to continue deploying and upgrading infrastructure capable of providing broadband to rural consumers. It would also, ironically, threaten the reliability of wireless services in rural areas, since wireless carriers rely on the wireline network to deliver many of their calls.

On the other hand, an interim cap on competitive ETC support would not harm these carriers' ability to provide service to their existing customers. Under the recommended interim cap, competitive ETCs will collectively continue to receive all of the support that flowed to them in 2006. In addition, most wireless competitive ETCs were already successfully providing service to the large majority of their rural customers prior to their designation as ETCs that granted them high-cost support.¹⁶ Unlike rural ILECs, which receive support only after they have made quantifiable investments in their

¹⁵ Corr Wireless Communications, LLC (Corr), p. 3; Dobson, p. 12; CTIA, p. 27; SouthernLINC, p. 22.

¹⁶ A recent study released by Criterion Economics finds that of the 148 million people living in areas where wireless carriers receive high-cost support, these supported carriers provide *unique* coverage to only two percent of the population (i.e., coverage that is not duplicated by at least one unsupported carrier). Nicholas Vantzelfde, "*The Availability of Unsubsidized Wireless and Wireline Competition in Areas Receiving Universal Service Funds*," Criterion Economics, LLC (May 29, 2007), p. 16. In addition, a second Criterion Economics study shows that there is no statistical correlation between the amount of high-cost support provided to wireless carriers and the proportion of the population or land area that has wireless coverage. Kevin Caves, Ph. D. and Jeffrey A. Eisenach, Ph. D., "*The Effects of Providing Universal Service Subsidies to Wireless Carriers*," Criterion Economics, LLC (June 13, 2007), pp. 37, 42.

networks, competitive ETCs receive support based solely on their customer counts with no regard to need or network buildout. As U.S. Representative Lee Terry observes:

...in many cases the growing outlays are not being used to extend service to new frontiers and outlying areas, but to pay as many as five providers to serve the same geographic area. Worse yet, many new entrants will take the full per-line subsidy to provide duplicative services in the more populated town centers while leaving the farms outside of town unserved.¹⁷

Therefore, it is highly doubtful that an interim cap on the high-cost support received by competitive ETCs would degrade the quality of wireless and other competitive services in rural areas.¹⁸

A few wireless carrier interests also argue against an interim cap on competitive ETC support, in part, by asserting that more comprehensive reforms to the High-Cost program are needed, which an interim cap fails to address.¹⁹ These parties provide a laundry list of what they perceive to be the infirmities of the existing high-cost support rules and their proposed solutions to them. While OPASTCO disagrees with these commenters as to the substance of their reform proposals, we do agree that certain long-term reforms are necessary to sustain the High-Cost program for the future.²⁰ However, these comments on long-term reforms are misplaced, as the NPRM specifically admonishes commenters "...that proposals for or comments on comprehensive high-cost universal service reform should be filed in accordance with the Joint Board's recent *Public Notice*."²¹ More importantly, though, an interim cap on competitive ETC support

¹⁷ Rep. Lee Terry, Editorial, "*Wireless Access*," Washington Times (June 13, 2007), p. A16.

¹⁸ As NASUCA states, "[t]he impact of a temporary cap on wireless funding while other USF issues are being resolved is speculative...." NASUCA, p. 6.

¹⁹ Sprint Nextel, pp. 2-5; Dobson, pp. 10-12; CTIA, pp. 5-6; SouthernLINC, pp. 19-20.

²⁰ In particular, OPASTCO supports the elimination of the identical support rule, which the Joint Board recognized "...to be one of the primary causes of the explosive growth in the Fund." Recommended Decision, ¶12.

²¹ NPRM, ¶5.

does not, as CTIA argues, avoid addressing the long-term issues facing the High-Cost program.²² It “...simply provides time for the FCC to consider the options for [high-cost] reform, without the ongoing concern of the explosive growth of the fund.”²³

III. CONCLUSION

The excessive growth in the High-Cost program that is threatening its sustainability is attributable solely to competitive ETCs. In order to ensure that consumers in rural and high-cost areas continue to have access to high-quality wireline and wireless services, the Commission must contain this growth while long-term reforms to the program are considered. As the record in this proceeding confirms, the Joint Board’s recommended interim cap on competitive ETC support is a logical and equitable approach to stemming the growth in the High-Cost program that will not harm the provision of universal service to rural consumers. OPASTCO urges the Commission to immediately adopt the Joint Board’s recommended interim cap on the high-cost support received by competitive ETCs, without modification.

²² CTIA, p. 5.

²³ OH PUC, p. 6.

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June 21, 2007

CERTIFICATE OF SERVICE

I, Brian J. Ford, hereby certify that a copy of the comments of the Organization of the Promotion and Advancement of Small Telecommunications Companies was sent by first class United States mail, postage prepaid, or via electronic mail on this, the 21st day of June, 2007, to those listed on the attached list.

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