

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

REPLY COMMENTS OF THE  
SOUTH CAROLINA TELEPHONE COALITION

Pursuant to Federal Communications Commission (“FCC” or “Commission”) Rules 1.415 and 1.419,<sup>1</sup> the South Carolina Telephone Coalition (“Coalition”)<sup>2</sup> hereby provides its reply comments in response to the FCC’s Further Notice of Proposed Rulemaking in the above captioned proceeding.<sup>3</sup> In this proceeding the Commission seeks comment on the recommendation of the Federal-State Joint Board on Universal Service (Joint Board) that the Commission take immediate action to rein in the explosive growth in high-cost universal service disbursements.<sup>4</sup> Specifically, the Commission seeks comment on the Joint Board’s recommendation that the Commission impose an interim, emergency cap on the amount of high-cost support that competitive eligible

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<sup>1</sup> 47 CFR §§1.415 and 1.419.

<sup>2</sup> The Coalition represents a group of eighteen (18) rural incumbent local exchange carriers (“ILECs”) providing telecommunications services to approximately 340,000 access lines throughout the state of South Carolina. A list of the Coalition member companies is reflected in Attachment 1.

<sup>3</sup> See *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-54, Notice of Proposed Rulemaking, FCC 07-88, rel. May 14, 2007.

<sup>4</sup> *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-1 (Fed.-State Jt. Bd., rel. May 1, 2007) (*Recommended Decision*).

telecommunications carriers (ETCs) may receive.<sup>5</sup> SCTC agrees with those commenters who support adoption by the Commission of the Joint Board’s recommendation.<sup>6</sup>

As the Joint Board pointed out, high-cost federal universal service support has experienced explosive growth in recent years as a result of increased support provided to competitive ETCs.<sup>7</sup> Support to incumbent local exchange carriers (“ILECs”), on the other hand, has been flat or declining since 2003.<sup>8</sup> The Joint Board concluded that immediate action must be taken to stem the dramatic growth in high-cost support, and correctly reasoned that an interim cap limited to high-cost support for competitive ETCs was the most efficient way to stop the growth in the high-cost fund while the Joint Board and the Commission consider fundamental and comprehensive universal service reform on a permanent basis.<sup>9</sup> The Joint Board also correctly reasoned that an interim cap on high-cost support that is applied only to competitive ETCs would not violate the universal service principle of competitive neutrality because of the fundamental differences in regulatory treatment between ILECs and competitive ETCs, perhaps the most important of which is that ILECs’ support is cost-based and competitive ETCs’ is not.<sup>10</sup>

The Public Service Commission of South Carolina (“SCPSC”) recognized early on the need to apply a rigorous public interest test in evaluating competitive ETC

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<sup>5</sup> *Id.*

<sup>6</sup> *See, e.g.*, Comments of TDS Telecommunications Corp., Comments of Indiana Telecommunications Association, Comments of Organization for the Promotion and Advancement of Small Telephone Companies.

<sup>7</sup> *See id.* at ¶ 4.

<sup>8</sup> *Id.*

<sup>9</sup> *See id.* at ¶ 5.

<sup>10</sup> *Id.* at ¶ 6.

applications,<sup>11</sup> citing “the very real risks that spreading finite universal service resources too thin will create to critical ‘carrier of last resort’ principles.”<sup>12</sup> As early as January 2005, the SCPSC cautioned: “Explosive growth in the size of the federal USF could threaten the long-term viability of the fund, thereby jeopardizing the continued provision of affordable basic local exchange service to rural subscribers.”<sup>13</sup>

As a result of its reasoned public interest analysis and dedication to preserving the scarce resource of the federal high-cost fund for its intended purposes, the SCPSC is one of the few state commissions that have yet to approve an application for designation as a competitive ETC. To date, two hearings have been held in South Carolina to address individual applications for ETC designation. One of the applications was withdrawn by the applicant after the hearing.<sup>14</sup> The other was denied by the SCPSC based on the SCPSC’s application of a stringent public interest test and upon detailed findings leading to the SCPSC’s conclusion that the applicant had failed to demonstrate that the public interest would be furthered by granting the application.<sup>15</sup> There are currently six (6) applications for such designation pending before the SCPSC.

Thus far, the SCPSC has taken very seriously the role assigned to it by Congress in Section 214(e) of the Telecommunications Act of 1996 to ensure the public interest is met prior to designating competitive ETCs in South Carolina, and particularly in areas served by rural telephone companies. The SCPSC has been deliberative in its actions,

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<sup>11</sup> See SCPSC Order No. 2005-5, Docket No. 2003-158-C, at ¶ 7 (“This requires us to conduct a specific, fact-intensive analysis to determine whether the benefits associated with the designation will outweigh the public costs.”).

<sup>12</sup> *Id.* at ¶ 14.

<sup>13</sup> *Id.* at ¶ 15.

<sup>14</sup> *In re Application of Alltel Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, SCPSC Docket No. 2003-151-C.

<sup>15</sup> SCPSC Order No. 2005-5, *In re Application of FTC Communications, Inc. d/b/a FTC Wireless for Designation as an Eligible Telecommunications Carrier*, SCPSC Docket No. 2003-158-C.

erring on the side of protecting public resources and the principles of universal service. As is evident from the recent explosive growth in the federal high-cost universal service fund, other states and the Commission have not been as cautious.

The Joint Board has now recognized, as the SCPSC did early on, that the exponential growth in the federal high-cost universal service fund that has resulted from designating ETCs without a rigorous public interest test is not sustainable for the long term. The SCTC applauds the Joint Board's efforts to address this growing problem.

For the reasons stated herein and in the Joint Board's *Recommended Decision*, SCTC supports adoption by the Commission of the *Recommended Decision*. SCTC agrees with the Joint Board that immediate action is needed to curb the growth of the federal high-cost fund and to preserve it for its intended purposes – *i.e.*, not to create and subsidize competition, but to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates, and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas.<sup>16</sup>

SCTC cautions, however, that applying the cap at the state level effectively rewards those states that have not been as proactive as others in protecting the public interest by preserving to the greatest extent possible the scarce resource of the federal high-cost fund for its intended purposes. While it may make sense to impose the interim cap at the state level on an emergency basis to stop the growth and give the Commission time to address more comprehensive fundamental reform, SCTC urges the Commission to address the current lack of proportionate distribution of competitive ETC support among the states when fashioning a comprehensive permanent solution to universal

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<sup>16</sup> See 47 U.S.C. § 254(b).

service reform. Comprehensive reform should be undertaken and implemented in a manner that does not penalize states like South Carolina that have worked diligently and in the public interest in order to avoid creating or contributing to the problem that now exists.

Finally, SCTC disagrees with those who have stated or commented that the Joint Board's recommendation for an immediate cap on competitive ETC funding would be detrimental to rural consumers.<sup>17</sup> Rural consumers, in fact, stand to suffer the most harm if the current untenable situation of explosive growth in the federal high-cost fund is permitted to continue. Rural consumers have benefited, and continue to benefit, from staying connected to the public switched telephone network, which would simply not be possible without the cost-based universal service funding that high-cost rural carriers of last resort receive. As the Joint Board clearly stated, the future of the federal high-cost fund is in jeopardy, and immediate action is needed. As the Joint Board correctly pointed out, one of the major flaws in the current system is that competitive ETCs, including wireless carriers, are not required to demonstrate their costs in order to receive "high-cost" support. Thus, there is no evidence that any universal service funds that flow to wireless carriers would actually benefit consumers in rural areas. ILECs, on the other hand, have demonstrated a commitment to serve as carriers of last resort in rural and high-cost areas, and federal high-cost funding is a critical mechanism that allows them to recover some of their *actual costs*<sup>18</sup> of providing that service. Thus, there is a direct benefit to rural consumers as a result of high-cost federal universal service funding that

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<sup>17</sup> See, e.g., Letter to Commissioners from Bill Sandifer, dated May 22, 2007.

<sup>18</sup> As the Joint Board noted, even high-cost funding for ILECs is capped. See *Recommended Decision* at ¶ 5.

flows to rural ILECs. As the Joint Board recognized, there are fundamental differences in the regulatory treatment of ILECs and competitive ETCs that justify adopting an interim cap that applies only to competitive ETCs.

For the reasons stated herein, the SCTC urges the Commission to adopt the Joint Board's Recommended Decision, and to impose an interim, emergency cap on the amount of high-cost support that competitive eligible telecommunications carriers (ETCs) may receive.

Respectfully Submitted,

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Attorneys for the South Carolina Telephone Coalition

June 21, 2007

Attachment 1

South Carolina Telephone Coalition Member Companies

Chesnee Telephone Company

Chester Telephone Company

Ft. Mill Telephone Company, d/b/a Comporium Communications

Home Telephone Company, Inc.

Horry Telephone Cooperative, Inc.

Lancaster Telephone Company, d/b/a Comporium Communications

Lockhart Telephone Company

McClellanville Telephone Company

Norway Telephone Company

Palmetto Rural Telephone Cooperative, Inc.

Piedmont Rural Telephone Cooperative, Inc.

PBT Telecom

Ridgeway Telephone Company

Rock Hill Telephone Company, d/b/a Comporium Communications

St. Stephen Telephone Company

Sandhill Telephone Cooperative, Inc.

West Carolina Rural Telephone Cooperative, Inc.

Williston Telephone Company