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
	)	

ALLTEL REPLY COMMENTS

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The record in this proceeding overwhelmingly supports the need for a comprehensive, long-term, and competitively neutral overhaul of the high-cost universal service program -- rather than the short-sighted proposal to impose a cap only on support for competitive eligible telecommunications carriers ("CETCs"). 1/ In these reply comments, Alltel Corp. ("Alltel") first highlights the broad range of opposition to the ill-conceived CETC cap proposal expressed by thousands of ordinary consumers and by the great majority of our nation's public policy leaders who have examined the proposal. Second, we discuss recent developments that demonstrate, contrary to the claims in the Recommended Decision, that there is no "emergency" or "crisis" in universal service fund growth that would justify a wholesale departure from the Act's requirement of competitive neutrality. Third, we address the meritless reports filed a few days ago by economists funded by Verizon, and we discuss the value of high-cost support to enable CETCs to bring needed wireless services to rural Americans. Finally, putting aside the legal, policy, and public interest infirmities of a cap only on CETC support, we discuss the unfairness

1/ *See* Notice of Proposed Rulemaking ("NPRM"), FCC 07-88 (released May 14, 2007); Recommended Decision ("RD"), FCC 07J-1 (Joint Board, released May 1, 2007); Order, DA 07-2565 (revising deadline for reply comments).

of the proposed implementation methodology and explain why the 2006 calendar year cannot properly be the basis of any funding cap.

I. Political Leaders and Consumers Support Comprehensive Universal Service Reform, Rather Than a Misguided "Quick Fix" That Fails to Address the Real Problems With Today's Program.

The depth of public opposition to the CETC-only cap proposal is striking. Public officials have expressed concerns that a CETC-only funding cap would (1) make it more difficult to achieve fundamental reform of the high-cost funding system, (2) harm consumers by depressing incentives for deployment of wireless networks in rural areas, and (3) unfairly skew the marketplace in an unfair and discriminatory manner. Commissioner Copps had it exactly right in his dissenting statement: the Joint Board's cap proposal "solves no enduring problem and… will be interpreted by many as movement enough to justify putting the larger universal service reform imperative on the back-burner. I fear today's action diminishes rather than enhances the prospects for near or even mid-term reform." As Commissioner Copps correctly observed, the CETC-only funding cap would "not address – or pretend to address – the fundamental, comprehensive reforms needed to carry a viable and improved system of universal service forward in the twenty-first century."2/

Commissioner Copps' view is shared by a majority of members of the Senate Commerce Committee and key leaders of the House Energy and Commerce Committee. Republicans and

2/ The fundamental problem with the current USF structure is that it is tailored to support ILECs' revenue streams from traditional voice-grade services, while technological changes and increasing competition are transforming rural consumers' telecommunications needs. The program also perversely rewards ILECs for losing customers by maintaining their overall support levels. This results in higher per line support for those customers that continue to be served and unnecessarily inflates the universal service fund due to the increased per line support amounts for both ILECs and CETCs. *See, e.g.,* Letter from Gene DeJordy, Steve Mowery and Mark Rubin, Alltel (filed Feb. 16, 2007); Dobson comments at 10-11 & n.44 (June 6, 2007). Alltel has offered a number of ideas to remedy this problem. *See, e.g., id.*; Alltel initial comments on long-term reform (filed May 31, 2007).

Democrats from both rural and urban states across the country are urging the Commission to pursue comprehensive reform of the outdated high-cost program, rather than simply imposing harmful restrictions on rural consumers' ability to access mobile wireless service. State governors and legislators, Indian tribal leaders, and local officials responsible for rural economic development and public safety agree that a CETC support cap would harm consumers in rural areas by reducing their access to the mobile services that they want and need the most

For example, Senator Ted Stevens (R-AK), the Vice Chairman of the Senate Commerce Committee who represents the most sparsely populated state in the country, compared the cap proposal to "someone's putting their head in the ground. This is an ostrich approach as far as I'm concerned."3/ He pointed out the irrationality of imposing a cap: "we have the new carriers come in with new technology and you're going to put a cap on what's happened in the past when we still have areas that don't have any service at all." *Id.* Alltel shares Senator Stevens' view that "[t]o put off comprehensive universal service reform risks a communications divide in this country. This would be a shameful outcome which would hurt jobs and small businesses throughout rural America, including my home state of Alaska."4/

At the same time, Representative Ed Markey (D-MA), representative of a densely populated district and Chairman of the Telecommunications and Internet Subcommittee of the House Energy and Commerce Committee, calls the Joint Board's CETC cap recommendation "a major disappointment and a setback for true reform. The Joint Board appears to want to battle an oncoming tsunami with bows and arrows. The Joint Board largely punts difficult decisions, yet again, to a later time. Its recommended 'interim, emergency cap' is anti-competitive, denies

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3/ Federal News Service, Transcript of the Hearing of the Senate Commerce Committee, "Universal Service Fund: Assessing the Recommendations of the Federal-State Joint Board" (June 12, 2007) ("Senate Hearing Transcript"), at 6.

4/ Senator Stevens press release, June 12, 2007 rural consumers the choices they deserve, and, if history is any guide, is unlikely to be 'interim.' The Board should have tackled tough issues in a manner that would have encouraged the Commission to use the record created over the last several years to act comprehensively now. Instead, yesterday's action diminishes the likelihood of timely reform and certainly raises the question as to whether the Joint Board is fulfilling the purposes for which Congress created it."5/

Vice Chairman Stevens and Chairman Markey are hardly alone. Senators from across the political spectrum and across the country have expressed concerns that "a cap, especially one imposed only on certain carriers, would not provide incentives to all stakeholders to engage in thoughtful negotiations on how to best reform the USF… Although the cap is reported to be only a temporary cap, we are concerned that it would become a de facto permanent cap. Unless all recipients have an incentive to find solutions to controlling the growth of the USF, we do not believe that the Joint Board or the FCC would ever be able to adopt measures to reform and modernize the administration of the USF. Instead of limiting rural consumers' options, the Joint Board should focus its efforts on long-term and even-handed interim and long term reform measures. It seems worthwhile to us that the Board should seriously consider competitively neutral proposals, ensure accountability for how funds are used, and promote build-out of advanced services in rural regions through effective targeting of funds to high-cost areas." 6/

Other Senators have stated, "We do not support any plan that would cap only one select group of providers but not others, as we believe such a fix would unfairly skew the marketplace. Instead, we reiterate the need for capping the overall program and doing so in a manner that does

5/ Chairman Markey statement, May 2, 2007

6/ Letter from Senators Jay Rockefeller (D.-WV), Mark Pryor (D.-AR), Byron Dorgan (D.-ND), Amy Klobuchar (D.-MN), and Gordon Smith (R.-OR) (Mar. 21, 2007).

not pick winners and losers or favor one technology over another. We also urge you not to use interim measures, such as a temporary cap, to address the pressing issues facing the USF program."7/ During the June 12, 2007 hearing of the Senate Commerce Committee, not a single Senator expressed support for the cap proposal, but many opposed it. For example, serious and thoughtful concerns were raised by the following Senators:

- Senator John Sununu (R.-NH): "What the Joint Board has done is recommended a relatively arbitrary cap for one segment of universal service -- the CETCs. I had, with other members of this committee, written a letter specifically suggesting that they not take this approach, that they look at a more comprehensive approach for capping funds…. I think that a piecemeal approach like this -- one, it's not necessarily fair. It has the potential to skew the markets. But two, it's … passing these significant problems within the system down the road…. [I]t's going to make it harder for Congress to act in a comprehensive way. I think it's going to create additional inequities in the system, and I find it somewhat disappointing." (Senate Hearing Transcript at 2-3)

- Senator Amy Klobuchar (D.-MN): "I'm concerned that any cap on high-cost universal support for competitive eligible telecommunications carriers, even the temporary cap proposed by the Joint Board, may at first delay and then hamper current efforts to build out wireless service in rural America."); Senator Pryor (an "interim [cap] … would make it difficult for a company to know what to do in terms of how much to invest based on future -- you know, what the future might look like." (*id.* at 4)

- Senator Olympia Snowe (R.-ME): "There's no denying we need reform…. But it doesn't mean that we have to accept a recommendation that disadvantages rural America…. [A]s a result of this cap on the high-cost fund, what's going to happen is that there are going to be fewer towers built. In fact, we'll lose five towers from one carrier. Another carrier is planning to build 32 towers over the next few years, and six of which last year that were built were based on using funds from the high-cost fund. So what that means is that … the rural parts of my state, as across America, … are going to be denied … the very technology that can make the difference between life and death…. But at the end of the day, the consequences are that people in rural America aren't going to get the benefits, you know, of this service when over half the calls to 911 come from wireless service…. [I]n addition, obviously [there are] economic implications when rural areas are denied the state-of-the-art technology. And so I think the inherent unfairness, the disproportionate burden that it places … on my rural state of Maine and rural regions around the country, … should lead the FCC to think about putting this on hold…. The world's revolving around wireless. And that being the case, we can no longer say, 'Well, we're just going to continue to have them exist in 1920s technology,' those wirelines, because

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7/ Letter from Senators John Sununu (R.-NH), John McCain (R.-AZ), Jim DeMint (R.-SC), and John Ensign (R.-NV) (Apr. 13, 2007).

we're in a different world today. And I don't think that rural areas should face that disproportionately." (*id.* at 12-13)

- Senator Daniel Inouye (D-HI): "In the end, we cannot let short-term proposals free us from the need to address long-term reform." (*id.* at 2).

And Representative Joe Barton (R-TX), ranking minority member of the House Energy and Commerce Committee, stated that "my preference is that we take a more comprehensive approach that addresses wireline carriers, as well, rather than one that just caps funds used primarily by wireless carriers." 8/

Leading state officials also have come out strongly against the cap proposal. Governor Kathleen Sebelius (D-Kansas) stated, "In my state of Kansas, with a rural population separated by large distances, it is hard to over-estimate the value of the partnership between the wireless carriers and the Universal Service Fund. Without USF support, I can safely say that many rural communities and Kansas would not have the necessary infrastructure and wireless coverage they have today…. I am … very concerned that an approach which would only cap CETCs could have a detrimental effect on Kansas' rural consumers. I also question the fairness of burdening the rural population with the full brunt of any cap. In light of the possible health, public safety and economic consequences to rural consumers as a result of this cap, I urge you to pursue a long-term solution that will hold all recipients to similar standards and accountability and continue to provide the best service possible to all Americans." 9/

Lieutenant Governor Stephen Pence (R.-Kentucky) told the Commission, "I would be opposed if this cap singled out wireless technology. Rural Americans deserve the same access to telecom services that are available in the rest of the country. Limiting the growth of the USF and/or unfairly targeting wireless technology in any cap would not provide the same opportunity

8/ Statement of Representative Joe Barton (May 2, 2007).

9/ Gov. Kathleen Sebelius letter (June 8, 2007).

for economic growth as their urban counterparts…. I implore you to consider reforms that are fair and equitable to all providers: explore competitively neutral proposals to slow the USF growth, improve accountability, and above all continue producing policy for expanding and promoting telecom services in rural parts of the states." 10/

Similar opposition to the CETC cap has been expressed by state public utility commissioners such as Jim Kerr of North Carolina, Curt Stamp of Iowa, and Dustin ("Dusty") Johnson of South Dakota; 11/ state legislators from Kentucky, North Dakota, and South Carolina; 12/ and leaders of the Navajo Nation (Arizona), the Oglala Sioux Tribe (South Dakota), and the Kalispel Tribe of Indians (Washington State). 13/ Sheriffs, E-911 coordinators, and other local public safety officials from Arkansas, Florida, Louisiana, Maine, Minnesota, Mississippi, Nebraska, South Carolina, West Virginia, and other states have raised alarms that the proposed cap would retard the deployment of wireless networks, which are vital to enabling citizens to call 911 for emergency service and for first responders to communicate in the event of

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10/ Letter from Lt. Gov. Stephen Pence (R.-KY) (May 30, 2007).

11/ Letter from James Kerr, N.C. Util. Comm'n (May 1, 2007); letter from Curt Stamp, Iowa Util. Bd. (Apr. 5, 2007) ("I have concerns that an approach that would only cap CETCs or wireless ETCs could have detrimental effects on Iowa's rural consumers. I would hate to see these people left behind because of a short-term fix that would take valuable infrastructure dollars out of the hands of wireless ETCs."); letter from Dustin Johnson, Chairman, S.D. PUC (Mar., 2007) ("targeting reforms to competitive ETCs, primarily wireless ETCs… may provide a quick-fix leading to the rapid elimination of fund growth, it would also result in a terrible disservice to rural consumers. Rural consumers want and need expanded and improved wireless services in rural areas for public safety, economic development, business and personal needs that are equally important to them as they are to urban consumers.")

12/ *See, e.g.*, Letter from Representative Jody Richards, Speaker of the House, Ky. House of Reps. (June 5, 2007); letter from Representative Bill Sandifer, Chairman, Pub. Util. Subcommittee, S.C. House of Reps. (May 22, 2007); letter from Representative Michael D. Thompson, S.C. House of Reps. (June 4, 2007); brief comment from Representative RaeAnn Kelsch, N.D. Leg. Assembly (June 8, 2007).

13/ Letter from Joe Shirley, Jr., President, The Navajo Nation (May 24, 2007); letter from Steve Grey, Chairman, and Ernest Franklin Jr., Executive Dir., Navajo Nation Telecomm. Reg. Comm'n (May 31, 2007); unanimous resolution of the Navajo Nation Telecomm. Reg. Comm'n, Res. #NNTRC-07-002, "Capping of the High Cost Portion of the Universal Service Fund; Opposing the Proposed Cap on the Univ. Serv. Funds Distribution for the Expansion and Improvement of Wireless Services in Rural Areas of the United States" (May 31, 2007); letter from John Yellow Bird Steele, President, Oglala Sioux Tribe (June 7, 2007); brief comment from Brent Wilcox, Dir. Of IT, Kalispel Tribe of Indians (June 8, 2007).

emergencies. For example, Everett B. Flannery, Chief Deputy of the Kennebec County, Maine, Sheriff's Office, testified as follows to the Senate Commerce Committee:

> The absence of good wireless service prevents those of us responsible for public safety in America's rural areas from doing our job properly. Poor wireless service exposes both rural enforcement officers and the public to unreasonable health and safety risks. Poor mobile service makes it less likely that citizens will be able to give timely notification to public officials of an emergency, whether it is a car crash, an accident in a logging operation, a hunting mishap, an ATV or snowmobile accident or any other emergency that needs to be reported. The non-availability of wireless service represents a danger both for public safety officials and the public alike. For example, when our dispatch center receives a 911 domestic violence call, the deputy assigned will call into dispatch and be connected directly to the caller…. [P]oor cell service in Kennebec County means that the deputy will often be unable to get through to the residents….
>
> [I]n the immediate aftermath of the storm [Hurricane Katrina], the universal service-supported wireless carrier had the only operating communications system on the Gulf Coast of Mississippi. If we in rural Maine were to be hit with such a disaster of this magnitude, I fear that we would have no means of communication at all.
>
> In Maine, the level of support going to rural wireless carriers from the Universal Service Fund will determine our ability to cope with a disastrous situation. Maine's public safety officials cannot understand why the federal government would consider capping rural wireless expansion funding just as it is beginning to achieve the results intended by the Congress in this landmark Telecommunications Act of 1996.
>
> Avoiding a cap on wireless universal service funding is a very important issue for Maine. That is why our entire congressional delegation has gone on record opposing the cap in the letters filed with the FCC. Also, earlier this month, the legislature of the state of Maine enacted a joint resolution memorializing Congress and the FCC in opposition to this cap. As this illustrates, achieving improved wireless service for our state is a thoroughly bipartisan effort. (Senate Hearing Transcript at 20-21)

The very real and harmful impact of the proposed wireless funding cap is addressed by the National Coalition Against Domestic Violence's director of public policy, Jill J. Morris:

> As the leading national organization of grassroots domestic violence shelter and service programs, we have made it our mission to advocate for victims of domestic violence and their children and the people who serve them. That is why we strongly urge you to vote against the proposed cap on Universal Service Funds (USF) for wireless that is currently in front of the FCC.
>
> For victims of domestic violence, reliable wireless service can literally mean the difference between life and death. For example, deputies responding to domestic violence disputes in rural communities need to obtain crucial situational information, but often

> have trouble getting through to the home of the victim. Also, spotty or non-existent wireless service can hamper a woman's ability to contact hotlines and emergency services or report an incidence of violence….
>
> This proposed cap, however, would significantly hamper the development of new wireless infrastructure in rural communities across the country, leaving many areas with poor coverage, dropped calls and dangerous dead zones. This is unacceptable, and an unnecessary risk for victims and the service providers that assist them. We strongly urge the FCC to reject the proposed cap on USF funding for wireless. Women and children in abusive situations should not suffer more simply because they live in a rural area.14/

The National Grange (the largest organization representing farmers in the country), numerous other farmers' associations, and countless individual telecommunications consumers have expressed strong opposition to a cap on high-cost support for wireless carriers serving rural areas. For example, Lori Gottula, a community activist in Falls City, Nebraska, wrote: "Those of us who live in rural areas need and deserve reliable cell phone service…. It is my understanding that, without the federal subsidies, updating cell service in rural areas would be cost-prohibitive…. [P]eople in rural areas need reliable cell phone service as much – if not MORE than – city residents. Why? Because if someone in a city has car trouble or has an emergency, he or she is almost always within walking distance of a telephone. In rural areas, we could walk for miles without ever reaching assistance…. The cell phone industry is growing by leaps and bounds. If subsidies are necessary so rural areas can keep up with our changing world, then we need the subsidies. Residents of rural America need – and pay for – RELIABLE cell phone service. It is only fair that we receive it. Don't forget about us. We need you."15/

14/ Letter from Jill J. Morris, Director of Public Policy, National Coalition Against Domestic Violence (June 12, 2007).

15/ *Id.*, Letter from Lori Gottula, Falls City, Nebraska (filed June 6, 2007).

II. There is no USF "Emergency" Justifying A Severe Funding Restriction That Violates Established Law and Policy.

Recent developments (since the date for initial comments on the NPRM) confirm that no USF funding emergency exists. 16/ The Joint Board cites the "crisis" of the ever-rising USF contribution factor as a justification for its USF funding cap and the necessity of a 2006 funding baseline. RD at 4 & n.11. Information released and actions taken by the FCC during the past two weeks belie these claims of emergency.

First, on June 11, 2007, the FCC's Wireline Competition Bureau announced that it would release an additional $650 million in unused E-Rate funds from funding years 2001-2004. 17/ Alltel applauds the proper use of these funds for schools and libraries. But this unexpected release of $650 million in previously withheld funding -- nearly two-thirds of the total support granted to CETC carriers for the entire year of 2006 (RD, App. A) -- raises serious questions about the basis for the contribution factor and the reasons for the wild fluctuations in the rate (from 9.7% in the first quarter, to 11.7% during the second quarter, to 11.3% during the third quarter of 2007).

Second, on June 13, 2007, the FCC released its Annual Telecommunications Industry Revenue Report.18/ This report shows that the wireless industry's share of contributions into the universal service fund increased to **37.1%** based on second quarter 2007 data – more than twice

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16/ *See* Alltel comments at 3; *see also* Centennial comments at 1 ("Centennial strongly disagrees with the notion that the Commission or the industry is facing any kind of "urgent" or "emergency situation"); Rural Cellular Ass'n comments at 8; U.S. Cellular Corp. and Rural Cellular Corp. comments at 6 ("[w]hile the current Board may see growth in the fund as a problem, the truth is that growth was anticipated, predictable, and exactly what was required to drive new technologies out to rural America").

17/ *Wireline Competition Bureau Announces Carryover of Unused Funds for Funding Year 2007*, (DA 07-2470) (released June 11, 2007) (pursuant to 47 C.F.R. § 54.507(a)(2) the Commission carried forward these unused schools and libraries funds to the 2007 funding year).

18/ News Release, *FCC Releases Annual Telecommunications Industry Revenue Report* (released June 13, 2007); *Telecommunications Industry Revenues 2005* (J. Lande, P. Almoguera, and K. Lynch, Industry Analysis and Technology Div., Wireline Competition Bureau) (released June 13, 2007) ("Revenue Report").

the **17.3%** of the fund contributed by ILECs.19/ The report also notes that "the pace of revenue growth for the wireless industry remained strong," up 9% during 2005, while revenues from ILECs decreased by 2% over the same time period.20/ Consumers clearly are demanding more wireless service and less ILEC service – yet the Joint Board's draconian proposal is premised on a "problem" of the increase of wireless ETCs' funding from their current share of less than 1/3 the amount disbursed to ILECs. RD, App. A.

Third, on June 14, 2007 the Bureau announced that the universal service contribution factor would be reduced to from 11.7% 11.3% for the third quarter of 2007. 21/ No explanation was provided for this reduction of the contribution factor. But it raises substantial questions about the basic premise underlying the Joint Board's recommendation – that the fund is spiraling out of control primarily due to support for CETCs. RD, ¶ 4 & n.11. It also is significant that the Joint Board's proposed cap on CETC funding would reduce the overall fund by only a few tenths of a percentage point (RD, App. A) – an amount that is far less than the quarter-to-quarter volatility of the contribution rate over the past few years, and that is relatively trivial given the overall size of the fund.

These developments further undercut the Recommended Decision's rhetoric about the supposedly "dire" (¶ 4), "unsustainable" (¶ 4), and "dramatic" (¶ 5) growth of high-cost support for CETCs, causing an "emergency" (¶ 1) or "crisis" (¶ 8). There is no fund growth "emergency" that would justify the CETC-only cap proposal, which would violate established law and over a decade of unbroken precedents. In fact, by reducing the deployment of wireless

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19/ Revenue Report at 3.

20/ *Id.* at 1.

21/ *See Proposed Third Quarter 2007 Universal Service Contribution Factor*, Public Notice, DA 07-2639 (released June 14, 2007).

networks in rural areas, the proposed cap on wireless support may create more true emergencies than it resolves. 22/

III. High-Cost Support Funds for Wireless CETCs Benefit Rural Consumers, Notwithstanding Verizon's and Criterion Economics' Meritless Attacks.

Last week, a team of analysts funded by Verizon submitted two papers purporting to show that unsubsidized wireless carriers (*e.g.*, Verizon Wireless) "serve more rural and remote areas than do subsidized carriers." 23/ This outrageous claim does not even survive the smell test, let alone a detailed analysis of the facts. Alltel conducted its own analysis of coverage and service availability in Montana and South Dakota, where Alltel receives universal service support and other wireless carriers, such as Verizon Wireless, AT&T/Cingular, Sprint, and T-Mobile, do not receive any support. As demonstrated below, Alltel is providing significant value for the universal service support received, including coverage in rural and remote areas that far exceed the coverage of unsubsidized wireless carriers, like Verizon Wireless.

Turning a blind eye to the facts, the two Criterion Economics papers launch a meritless, ad hominem attack on Alltel (as well as US Cellular). For purposes of this filing, we set forth some preliminary observations about the falsity of Criterion Economics' factual contentions, the

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22/ Wireless devices are often the primary means of communication in the event of a life-threatening emergency. *See e.g.,* the Comments of the Harrison County Biloxi Police at 1 ("Quite simply, we cannot provide rapid response rescue services to citizens and visitors in crisis if they cannot call us."); the RD CETC funding cap as contrary to public safety due to the critical importance of mobile communications. *See also, e.g.,* Comments of Perry County Sheriff's Office at 1 (the local sheriffs office used the commercial cellular network as a primary means to communicate with troopers. The law enforcement comments explained that mobile communications are more private than broadcast police radios, and at least for this jurisdiction, have become a powerful law enforcement tool.). *See also See Turning Cell Phones Into Lifelines,* CNet (Dec. 6, 2006) (explaining that cell phones have proved to be the most valuable tool for locating lost or missing people. "Navigation tools may help someone if they need to understand where they are to get to safety . . . .But in order for someone to find you, you really need a device, like a cell phone, that can provide two-way communication").

23/ Kevin W. Caves & Jeffrey A. Eisenach, Criterion Economics, LLC, "The Effects of Providing Universal Service Subsidies to Wireless Carriers" (June 13, 2007); Nicholas Vantzelfde, Criterion Economics, LLC, "The Availability of Unsubsidized Wireless and Wireline Competition in Areas Receiving Universal Service Funds" at page 13 (June 13, 2007).

fundamental flaws in their data analysis methods, and the misleading premises for their conclusions.

First, the data analysis in Criterion Economics' Vantzelfde paper (on which the conclusory opinions in the Caves/Eisenach papers are based) relies heavily and improperly on wireless carriers' websites' retail coverage maps as a tool to determine where service is available. While such maps do provide a valuable tool for consumers to generally determine where service is available, the maps are not the proper foundation upon which to draw conclusions about an individual carrier's network facilities and coverage. Carriers' marketing maps do not and are not intended to show actual wireless signal propagation or to distinguish between carriers' own facilities-based coverage and the coverage provided by carriers' roaming partners or resale arrangements.

To illustrate the infirmities of Criterion's reliance on website marketing maps, we present a more detailed comparative analysis of carrier coverage in South Dakota and Montana – where Alltel has CETC status and is obligated to satisfy rigorous service and build-out standards, but where none of the four largest carriers (Verizon Wireless, AT&T, Sprint, and T-Mobile) have CETC status. The coverage map in Vantzelfde's paper (p.13) shows most of Montana and South Dakota as served by "unsubsidized" wireless carriers that overlap CETCs' coverage. But a more granular analysis, drawn from engineering data collected by the American Roaming Network,24/ makes it clear that Alltel has far greater facilities coverage than any of the four national carriers, none of which has CETC designation in these states. The maps below show areas where carriers' own network facilities provide coverage. Notably, Alltel has facilities covering 95.1% of the population and 58.4% of the land mass in Montana; Verizon Wireless, the unsubsidized

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24/ *See* http://americanroamer.com/overview.html carrier in the Criterion Study, covers only 78.1% of the population and 13.1% of the land mass in Montana. In South Dakota, the difference in coverage is even more telling: Alltel's facilities serve 97.2% of the population and 86.2% of the land mass in South Dakota; Verizon Wireless' network covers only 82.7% of the population and 52.8% of the land mass in South Dakota. But yet, the Verizon-sponsored Criterion Economics study ignores these facts and wildly claims that unsubsidized wireless carriers "serve more rural and remote areas than do subsidized carriers."25/ The table below, based upon American Roamer data, demonstrates that Alltel, as the CETC, actually serves far more rural and remote areas than the unsubsidized carriers.

Montana				
Carrier	**CovgPOPs**	**CovgSqMi**	**%PopCovg**	**%SqMiCovg**
Cingular	752	126	0.1%	0.1%
Verizon	713,941	19,180	78.1%	13.1%
Sprint	0	0	0.0%	0.0%
T-Mobile	0	0	0.0%	0.0%
Alltel	868,948	85,570	95.1%	58.4%
State	**914,130**	**146,600**		

South Dakota				
Carrier	**CovgPOPs**	**CovgSqMi**	**%PopCovg**	**%SqMiCovg**
Cingular	21,221	535	2.8%	0.7%
Verizon	629,597	40,600	82.7%	52.8%
Sprint	230,988	2,133	30.3%	2.8%
T-Mobile	151,535	622	19.9%	0.8%
Alltel	739,792	66,320	97.2%	86.2%
State	**761,252**	**76,950**		

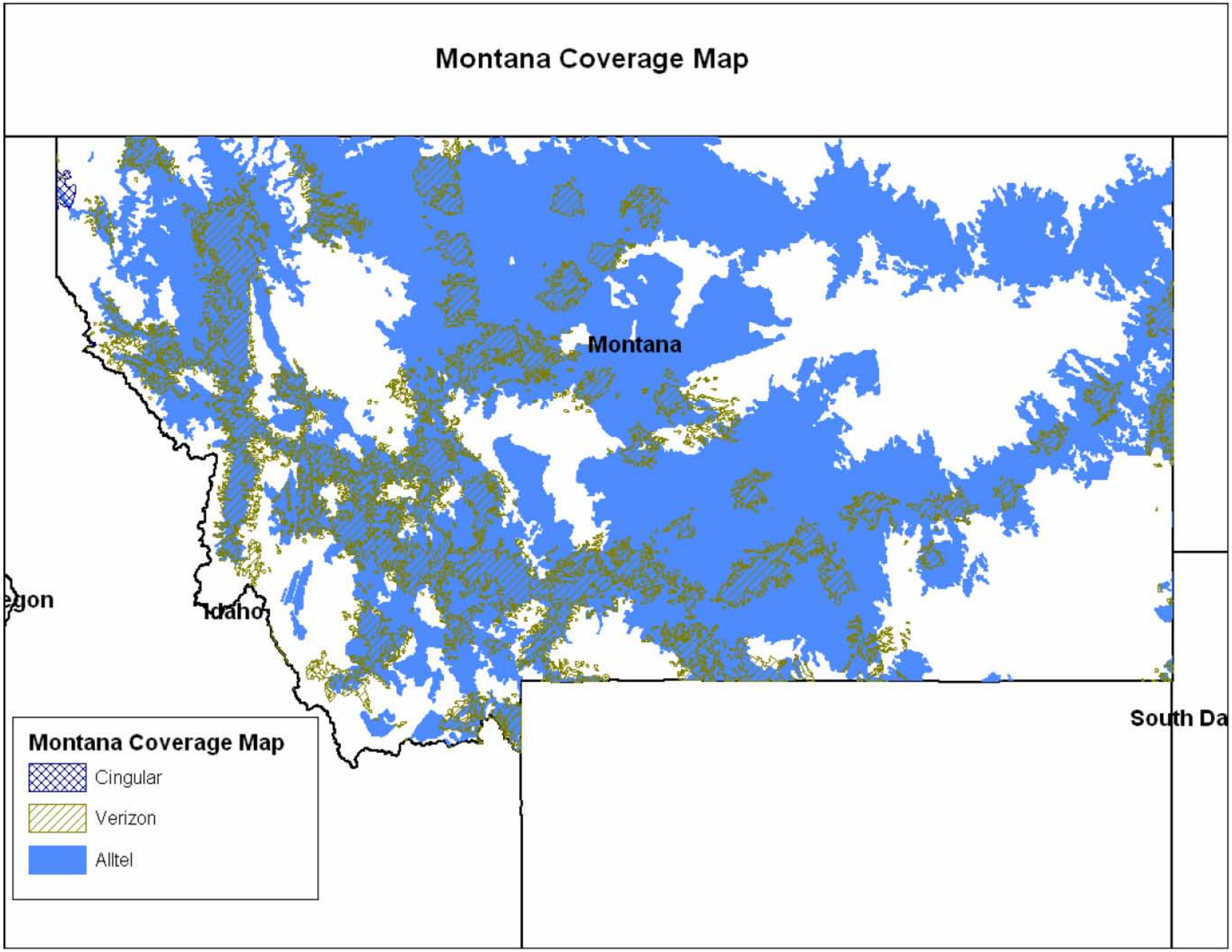
Note: Using American Roamer Coverage files to compute Pops and Sqmi

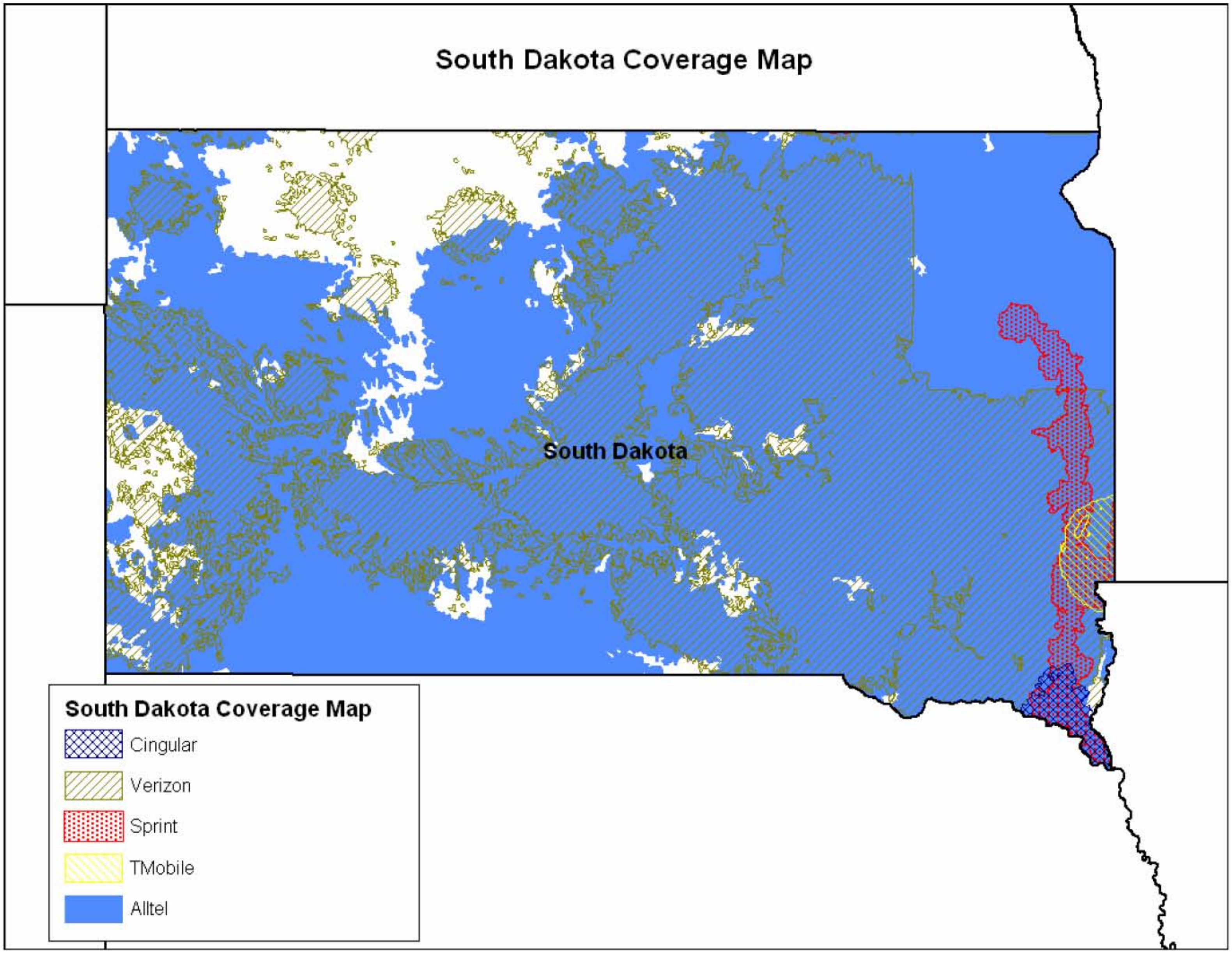
25/ Vantzelfde paper, p. 13. *See also* Testimony of Richard Massey, Alltel, before the Senate Commerce Committee, March 1, 2007, at 8 (maps displaying very substantial increase of coverage in remote areas of the Pine Ridge Reservation directly following Western Wireless' designation as an ETC).

Criterion's vastly overstated portrayal of "unsubsidized" carriers' coverage26/ suffers from some of the same defects as certain other data compilations, such as that supplied by the FCC in its annual wireless competition reports. 27/ The difference is that the Commission honestly discloses caveats about the likely overstatement of coverage in its analysis. Criterion Economics does not.

26/ Some of the carriers' website maps appear not to disclose that in many areas, a wireless carrier's "on-net" coverage is actually provided via roaming or a comparable arrangement involving resale of another carrier's service. Wireless carriers *with non-redundant* networks have large incentives to enter into such agreements, so as to provide their customers with the largest coverage possible without having to make unnecessary, uneconomic facilities investments. For example, Alltel has entered into such arrangements with Verizon Wireless and other carriers to allow those carriers to extend their "on-net" coverage into areas where only Alltel has facilities. In such circumstances, there is no "redundancy" between the CETC and another carrier; in fact, the "other carrier" might well be unable to offer even roaming service to its customers but for the presence of the CETC.

27/ "As mentioned in previous reports, there are several important caveats to note when considering the data. First, to be considered as 'covering' a county, an operator need only be offering any service in a portion of that county. Second, multiple operators shown as covering the same county are not necessarily providing service to the same portion of that county. Third, the figures for POPs and land area in this analysis include all of the POPs and every square mile in a county considered to have coverage. Therefore, our analysis overstates to some unknown and unavoidable degree the total coverage in terms of both geographic areas and population covered." *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, Eleventh Report, 21 FCC Rcd 10947 (2006).


Montana Coverage Map
Montana
egon
Idaho
South Da
Montana Coverage Map
Cingular
Verizon
Alltel


South Dakota Coverage Map
South Dakota
South Dakota Coverage Map
Cingular
Verizon
Sprint
TMobile
Alltel

A second observation about the Vantzelfde paper is that even if one were to accept Criterion's characterization of coverage – which as demonstrated above, is incorrect – the paper also contains a misleading and unsupported analysis of wireless CETCs' so-called "incremental" coverage. (p.15) Criterion uses the misleading term "incremental coverage" to refer to areas that at present are served solely by CETCs and by no other "unsubsidized" carrier. But Criterion's fundamentally *static* definition of "incremental coverage" gives no recognition to the *timing* of entry by the CETC vs. the "other" carrier. In Criterion's "analysis," a CETC could have commenced operations years before the arrival of a Verizon or other "national" carrier, but as long as both service areas now overlap, in Criterion's view the CETC is the one providing the "redundant" service. Indeed, if such "other" carrier were offering service exclusively via the use of the CETC's network, in Criterion's view the CETC – not the "other" carrier – would be the one providing the "redundant" service.

A third observation is that the Criterion studies proceed from an unrealistic static snapshot of the marketplace, using static assumptions as to the extent of wireless CETC network deployment at a single point in time. Examining coverage in 2007 does not provide a valid basis to demonstrate where and to what extent USF funding of CETCs has allowed a CETC to deploy facilities in an otherwise unserved market *in the past*. Criterion also makes no attempt to account for ongoing network construction and deployment activities. And they improperly assume static amounts of USF funding, based on "the cumulative amount of support for 2003-2006" (Caves/Eisenach paper, p. 34), and fail to consider the dynamic impact of high-cost support, including legitimate expectations of ongoing funding, on wireless CETCs' deployment decisions over time -- in the future as well as the present.

A fourth observation is that the Criterion studies misleadingly exaggerate the extent of overlap between areas served by wireless CETCs and areas served by "unsubsidized" carriers, by basing its population calculations on the entirety of large ILECs' study areas. The Vantzelfde paper (pp. 9-14) purports to show that some 147.7 million people, or roughly half of the total US population, reside in areas where service is purportedly "available" from at least one wireless CETC. This preposterous conclusion is based upon wireless coverage maps publicly available on carrier websites, Census Bureau population counts, and *entire ILEC study area boundaries*. By using the full ILEC study area boundaries -- which in the case of RBOCs often includes most or all of an entire state -- Criterion has incorrectly attributed huge counts of population as being "covered" by a CETC, where in reality only a portion of such a study area is eligible for USF funding. Moreover, the study does not recognize that CETCs often are designated for only a limited number of wire centers within a large ILEC's study area.

Most critically, the studies vastly overstate the population in areas where wireless CETCs *are receiving high-cost funding*, by failing to account for the fact that both ILECs and CETCs receive Interstate Access Support ("IAS") only in a limited number of "density zones" in a given non-rural "study area," and receive High-Cost Model ("HCM") funding only in a limited number of wire centers in those few states where such funds area available mechanisms..28/ Instead of counting the population that resides in the specific zones and wire centers that receive support, it

28/ Criterion's Figure 6 at page 10 purports to show study areas where wireless CETCs receive USF funding. A close analysis of this map reveals that Criterion has included in its population counts of CETC-eligible areas a number of major metropolitan areas in the US that are decidedly not eligible to receive High Cost USF funds. These include New York City, Long Island, Westchester, Albany, Syracuse, and Buffalo (in New York); Tampa, St. Petersburg, Miami and Orlando (in Florida); San Francisco, San Jose, San Diego, and Los Angeles (in California); as well as Denver CO, Seattle WA, Minneapolis MN, and Albuquerque *NM, among others.* New York City alone has a population of approximately 8.5-million, which represents fully 5.5% of the population count that Criterion has included as being "covered" by a CETC. USAC's quarterly filings provide detailed tables showing the per-line IAS funds disbursed in each zone and the per-line HCM funds disbursed in each separate wire center. These resources confirm that in every one of the cities noted above, no IAS or HCM funds are available.

appears that Criterion included the population of the *entire* ILEC study area that is purportedly "covered" by a CETC. Population estimates of the density zones and wire centers eligible for USF support could have been estimated. By electing not to do so, however, Criterion has presented highly misleading and exaggerated data as to the actual extent to which CETC support is available.

These patently inaccurate population counts provide the foundation for almost every analysis included in the Criterion study, including the incremental coverage analysis, carrier-by-carrier case studies, and the regression analysis presented in the Caves/Eisenach paper to measure the effects of CETC USF funding. All of these analyses are flawed as a result of this basic data element, and cannot provide any reliable evidence as to CETC coverage, or the effects of USF funding for CETCs.

The foregoing simply represent flaws in Criterion's data analysis and methodology. More significant by far are the defects in the studies' public policy analysis, which not coincidentally mirror those of the studies' sponsor, Verizon. Contrary to Criterion's flawed assessment, the presence of multiple wireless carriers (including one or more not eligible for CETC status) in a given geographic market in no way provides a legitimate policy basis for capping or eliminating USF support. For example, the studies purport to examine how high-cost funding to wireless CETCs affects the availability of service, the number of competitive choices available in an area, and the proportion of consumers with multiple competitive options. (Caves/Eisenach at 32) But they make no effort to examine whether funding to ***ILECs*** has any impact upon the same variables. They simply assume implicitly that ILEC funding is appropriate at current levels.

Alltel suspects that the subsidy funding disbursed to ILECs – over 3/4 of the total high-cost fund – has little or no impact on the availability of service in rural areas or the range of competitive choices available to consumers with respect to the voice services currently supported by the high-cost program. For example, Verizon's landline telephone companies receive approximately $250 million of high-cost funding each year. Criterion Economics does not even consider, and Verizon has made no showing, that these hundreds of millions of dollars of ratepayer contributions had any impact whatsoever on the incremental availability of network facilities or competitive choices for consumers. The IAS and HCM funds disbursed to Verizon bear no relationship to the company's actual costs or network investments.29/ By contrast, every dollar of funding disbursed to Alltel and other wireless CETCs must be spent on maintaining and improving the supported facilities and services, and is subject to stringent and rigorous oversight by the FCC and virtually all state commissions. The FCC now requires FCC-designated CETCs to submit detailed 5-year plans for how funds will be used to improve service for consumers, 47 C.F.R. § 209(a)(1), and many states have similar requirements. So every dollar of funding taken away from wireless CETCs via a funding cap or other policy change represents a dollar less investment in wireless services in rural areas.

IV. Setting a Fund Cap Using a 2006 Base Year Would Be Arbitrary and Capricious.

Putting aside the legal, policy, and public interest infirmities of a CETC-only fund cap in general, the Joint Board's proposed implementation methodology is arbitrary and capricious. Calendar year 2006 cannot properly be the basis of any funding cap. Alltel agrees with CTIA, Dobson, Mid-Rivers, RICA, Sprint, and others who demonstrate that use of a 2006 base year

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29/ The U.S. Supreme Court expressed concern about the FCC's finding, nearly a decade ago, that Verizon's and other ILECs' "book costs may be overstated by approximately $5 billion." *Verizon Communications, Inc. v. FCC*, 535 U.S. 467, 518 (2001).

(rather than a more current time period) would unfairly roll back existing many CETCs' current support levels, make it difficult or impossible for CETCs to satisfy commitments regarding service improvement and construction plans, potentially cause rate shock for rural consumers, and preclude competitive entry.30/

As a designated ETC in Montana and Nebraska, Alltel particularly appreciates the concerns of the Montana and Nebraska Public Service Commissions. Alltel agrees with the Montana PSC that the "choice of 2006 as the base year for the interim cap … will likely stymie CETC expansion of wireless service in Montana thereby stifling the achievement of Congress's universal service goals."31/ The Nebraska PSC states that if any funding cap were imposed, "the Commission should use the most current information relative to designated ETCs rather than using 2006."32/

AT&T correctly identifies the core problem with the proposal to use 2006 as the base year for capped funding, but offers the wrong solution to this real problem. Alltel agrees with AT&T's description of one of the worst infirmities of the 2006 base year proposal:

> [T]he cap, as originally proposed, could result in precipitous, unforeseen, and significant decreases in per-line support available to a CETC…. Such sharp declines in support funding could wreak havoc on CETC budget and infrastructure deployment plans…. Because of the lag between planning a new cell site and beginning operations, for example, a wireless CETC generally must plan and construct new cell sites to increase service to rural areas based on the amount of federal high-cost support it is projected to receive once it begins operations, but well before having such funding in hand. It is not just the significant lag time between planning and operations that requires CETCs to develop infrastructure deployment and budget plans based on projected federal universal service high-cost support. Many states require CETCs to submit expenditure plans regarding their proposed use of federal high-cost support in order to obtain recertification of eligibility to receive support in the following year; such plans often must be submitted six months or more before the start of the coming year…. If the interim, emergency cap

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30/ CTIA comments at 5, 28-29; Dobson comments at 14; Mid-Rivers comments at 9; RICA comments at 3; Sprint comments at 2; *see also* Alltel comments at 20-21 (all filed June 6, 2007).

31/ Montana PSC comments at 2.

32/ Nebraska PSC comments at 5.

> is adopted and implemented as originally proposed, such expenditure plans could well be rendered meaningless as CETCs would have far more difficulty forecasting both how much support they expect to receive in the coming year (or years), and, therefore, the projects and investments they will be able to complete with such funds – at least with any precision. In addition, a reasonably prudent CETC likely would have to suspend, or significantly curtail, deployment of additional infrastructure and equipment because of the risk that the universal service support on which such investment may depend may not be forthcoming, or could drop precipitously and without warning.33/

Yet AT&T's proposed "solution" to this problem – preventing newly designated CETCs from receiving high cost support for up to a year after receiving designation – is all wrong. It would unlawfully preclude competitive entry,34/ and would reinstate an anti-competitive anomaly in the funding procedures that the Commission recently remedied.35/ Instead, if a cap is implemented, then it should be based upon support provided to CETCs as of the end of 2007.

Conclusion

For the reasons set forth above and in Alltel's past filings in these dockets, Alltel urges the Commission to reject the Recommended Decision, and instead to proceed with consideration of sustainable long-term solutions that will be competitively neutral and promote the interests of consumers in rural America.

33/ AT&T comments at 5-7.

34/ *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, Declaratory Ruling, 15 FCC Rcd 15168 (2000) ("*South Dakota Declaratory Ruling*").

35/ *Federal-State Joint Board on Universal Service*, 20 FCC Rcd 6371, ¶ 92 (2005) ("*CETC Designation Framework Order*") ("We conclude that in order to provide universal service support to newly designated ETCs on a timely basis, ETCs shall be eligible for support as of their ETC designation date, provided that the required certifications and line-count data are filed within 60 days of the carrier's ETC designation date.").

Respectfully submitted,

ALLTEL CORP.

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