

**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 AT&T INC.

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 20th Street, N.W., Suite 1000
Washington, D.C. 20036
(202) 457-3058 (bus.)
(202) 457-3074 (fax)

Its Attorneys

July 2, 2007

TABLE OF CONTENTS

1. Introduction and Summary	1
2. The Commission Should Adopt Pilot Programs to Encourage Broadband and Mobile Wireless Infrastructure Deployment.....	5
a. Additional Details Concerning the Broadband Pilot Program.....	11
3. The Commission Should Better Target “Non-Rural” Support to Areas That Need It	17
4. Adoption of a Reverse Auction Distribution Methodology Should Not Be an End in and of Itself.....	18
5. Conclusion.....	19

**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 AT&T INC.

1. Introduction and Summary.

AT&T Inc., on behalf of its wholly-owned subsidiaries and affiliates (collectively “AT&T”), respectfully submits these reply comments in the above-captioned dockets.

Once again, comments in this proceeding reflect a broad industry consensus regarding the increasingly desperate need to overhaul the nation’s existing universal service support regime. Parties generally agree that the existing regime, which continues to rely heavily on implicit subsidies in intrastate rates to fund universal service support for the majority of customers living in high cost rural areas served by purportedly “non-rural” carriers, is broken and that fundamental reform, consistent with the core universal service objectives set forth in section 254(b), is necessary to preserve and enhance universal service in today’s competitive marketplace. Parties further agree that a root cause of the problems plaguing the existing federal high cost support regime (including the quadrupling of the fund over the past decade) is the failure of that regime to identify and target support to those rural areas where support is needed to meet congressional universal service objectives. Instead, the existing federal high cost support mechanisms disburse a significant amount of support without regard to the universal service

mandates in the Act, and thus provide significant and duplicative support to fund redundant networks in certain high cost rural areas, while providing little or no support to “non-rural” carriers to provide affordable services to millions of customers in high cost rural areas. A broad spectrum of commenters therefore urge the Joint Board and Commission to reform federal high cost support mechanisms and policies to target support to those areas where it is needed to ensure that consumers in rural America continue to have access to high quality and affordable telecommunications and information services (including local, long distance, wireless, Internet, and advanced telecommunications and information services) comparable to those offered to consumers in metropolitan areas.

Parties also generally concur that any such reform should include Commission action to promote investment in advanced, broadband facilities and services to ensure that consumers in rural America have access to comparable advanced telecommunications and information services as consumers in urban areas, consistent with congressional objectives laid out in sections 254 and 706.¹ Many of these parties agree that federal support for broadband deployment in rural areas should not simply be appended to the already broken high cost support mechanisms, but rather should tackle the issue head-on, and support broadband deployment directly without adding it to the existing list of supported services.

In its initial comments, AT&T laid out a proposal for a pilot program to support deployment of broadband facilities and services in rural areas that would meet these objectives, providing targeted support for broadband investment where needed in high cost rural areas without exacerbating the problems inherent in the existing high cost support regime. Under this

¹ 47 U.S.C. § 254; Pub. L. 104-104; Title VII, § 706, Feb. 8, 1996, 110 Stat. 153 (1996 Act, Section 706).

program, the Commission (with the assistance of the states) would identify and target a specified amount of support to promote investment in those rural areas where, due to market conditions, service providers have not deployed broadband facilities capable of providing services reasonably comparable to those available in urban areas. In these reply comments, AT&T provides additional detail concerning how the Commission can and should implement its proposal in response to questions raised by members of the Joint Board during recent ex parte discussions regarding the need for universal service reform.² We also refute claims by Time Warner and Sprint that the Commission lacks authority to provide support for broadband other than for schools and libraries and rural healthcare, as well as address flaws in other broadband support proposals.

Many parties agreed that the Commission should maintain its commitment to ensuring that consumers in rural areas have access to mobile wireless services comparable to those available in urban areas, but should do so through a separate, “wireless” support mechanism that does not maintain and/or exacerbate the problems of the existing high cost support mechanisms – such as by providing support for an unlimited number of wireless connections and providers for a particular area, or providing support based on the costs of wireline networks and providers, as is currently the case under the identical support rule. Here again, AT&T has urged the Commission to consider establishing a wireless pilot program that would meet these objectives, and encourage investment in wireless equipment and facilities to meet any concerns regarding the lack of adequate mobile wireless coverage in rural America, rather than continuing to provide

² See Letter of Jamie Tan, AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337, CC Docket No. 96-45 (filed Jun. 1, 2007); Letter of Jamie Tan, AT&T, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337, CC Docket No. 96-45 (filed Jun. 14, 2007).

support to subsidize wireless competition in areas with multiple mobile wireless service providers under existing mechanisms.

On the core issues surrounding reform of the existing high cost support mechanisms for purportedly non-rural carriers, AT&T generally agrees with Embarq that any such reform must include modifying that mechanism to eliminate state-wide averaging and to disaggregate costs (and therefore calculate support) at a more granular level, such as on the basis of an individual wire center, so that the high costs of serving a particular high cost rural area are recognized rather than netted out. In disaggregating costs and support, the Commission should aim not simply to disaggregate and more narrowly target support in areas that already are receiving support, but rather to get support to all high cost areas that need it – regardless of the classification of the carriers serving those areas – and thus finally address the problem of rapidly eroding implicit subsidies. Simply shuffling existing federal support for purportedly non-rural carriers around will not achieve Congress’s mandate that the Commission and Joint Board establish specific, predictable, and sufficient support mechanisms to preserve and advance the core universal service objectives in section 254(b) in a competitive environment.

For the same reason, the Commission should reject Verizon’s reverse auction proposal, which simply seeks to replace the existing mechanism for distributing high cost support for “non-rural” carriers with no change in the amount of support distributed or in the areas receiving support. As AT&T previously has pointed out, a reverse auction mechanism could offer significant advantages over the existing mechanism, but only as part of broader reform designed to target high cost support to those areas where it is needed to meet congressional universal service objectives. Simply put, a reverse auction is not an end in itself and should not be treated as such.

In addition, CTIA's "winner takes more" auction proposal would subsidize redundant networks and providers, unnecessarily increasing the size of the fund without promoting universal service objectives. Accordingly, both these proposals should be rejected.

2. The Commission Should Adopt Pilot Programs to Encourage Broadband and Mobile Wireless Infrastructure Deployment.

In the initial comments in this proceeding, a broad cross-section of commenters agreed with Chairman Martin that the existing high cost support regime is fundamentally broken and desperate need of repair.³ That regime has not kept pace with marketplace developments, as increasing competition and technological change – coupled with regulatory inequities that have fueled shifts in consumer demand – have drained the implicit subsidies on which existing federal high cost support for so-called “non-rural” carriers is based. At the same time, new challenges have emerged, confronting policymakers and service providers alike with the daunting prospect of determining not only how to maintain the availability in rural areas of affordable telecommunications services comparable to those in urban areas, but also how to encourage the investment in infrastructure necessary to ensure that consumers in those areas will have access to broadband and the advanced telecommunications and information services that only can be offered over broadband networks. But as implicit subsidies have evaporated without any corresponding increase in universal service support or any change in “non-rural” carriers’ underlying carrier-of-last-resort (COLR) obligations in rural areas, so too have the incentive and ability of those carriers to make that investment dissipated. Worse yet, even as federal high cost support for rural areas served by purportedly “non-rural” carriers has proved increasingly inadequate, the federal universal service fund itself has ballooned, quadrupling in a decade due to

³ Comcast Comments at 2-3; Frontier Comments at 3-4; GCI Comments at ii; Windstream Comments at 3; CPUC Comments at 2-3; Embarq Comments at 1-2; T-Mobile Comments at 14; Opening Remarks of Chairman Kevin Martin, Federal-State Joint Board on Universal Service En Banc Meeting (Feb. 20, 2007).

policies designed more to promote competition in the rural areas where support happens to be available than to provide incentives to invest in the facilities necessary to meet the full range of universal service objectives in section 254(b). The sheer magnitude of the problem has engendered regulatory paralysis and stymied efforts to reform the system, even as increasing and unprecedented strains threaten that system with collapse.

In light of these developments, parties generally agree that federal universal service policies, and the high cost support regime in particular, must be overhauled not only to preserve and advance universal service consistent with the principles of section 254(b), and the Tenth Circuit's mandate, but also to ensure that rural America is not left behind by the digital and broadband revolution. These parties agree with AT&T that Commission action is necessary, in particular, to ensure that consumers in rural areas continue to have access to affordable telecommunications and information services – including broadband and wireless services – that are reasonably comparable to those available to consumers in urban areas.

Many of these parties agree that, rather than trying to address broadband and mobile wireless infrastructure deployment objectives using the existing, flawed federal high cost support mechanisms, and adding them to the list of supported services – as Alltel proposes,⁴ the Commission should tackle these issues head-on.⁵ As noted above and in AT&T's initial comments, by basing support on statewide averaging to determine where and how much support to provide to the non-rural category of carriers, the existing mechanisms fail to target support to those carriers and rural areas that need it. Relying on that mechanism to distribute support for

⁴ Consumers Union Comments at 14-51; OPASTCO Comments at 20-26; Nebraska PSC Comments at 12-13; Iowa Utils. Bd. Comments at 5; Mid-Rivers Comments at 3; ITTA Comments at 54-55.

⁵ See, e.g., NASUCA Comments at 49 (broadband); NTCA Comments at 51 (broadband); T-Mobile Comments at 11-14 (broadband); CPUC Comments at 8 (broadband); Windstream Comments at 10-11 (broadband); ATA Comments at 7 (wireless); CenturyTel Comments at 12 (wireless); Williamson Comments at 29 (wireless); ITTA Comments at 69-71 (wireless).

broadband and wireless build-out would simply exacerbate the problem. In particular, it would continue to provide insufficient support in the majority of rural areas served by “non-rural” carriers and too much in others, wasting resources and inflating the fund to little avail. In contrast, as CenturyTel observes with respect to wireless, establishing discrete funding mechanisms to encourage investment in broadband and mobile wireless infrastructure would help stabilize the existing high cost support mechanisms (providing the Commission breathing room to tackle the complex issues relating to comprehensive universal service reform) and permit the Commission to target support for broadband and wireless where it is needed.⁶ The Commission therefore should reject proposals to simply add broadband or wireless services, to the list of supported services, and instead support deployment of broadband and mobile wireless infrastructure directly through mechanisms that target support only where it is needed.

In its initial comments, AT&T proposed two, discrete funding mechanisms that could be implemented immediately and would provide targeted support for deployment of broadband and mobile wireless infrastructure without perpetuating and exacerbating the problems inherent in the existing high cost support mechanisms. Under these proposals, the Commission would establish two pilot programs to make available specified amounts of funding⁷ to support investment in broadband and wireless equipment and facilities in high cost rural areas where, due to market and regulatory conditions, service providers have not deployed broadband and mobile wireless infrastructure capable of providing services comparable to those available in urban areas. Participation in these pilots would be purely voluntary, with providers free to choose whether to apply for funding based on their evaluation of their business needs and program

⁶ See CenturyTel Comments at 5-7.

⁷ For example, the Commission could make available \$1 billion per year for two years for broadband deployment, at the end of which the Commission would decide whether to extend, modify or terminate the program.

requirements, which must be clearly delineated in advance so that participants know what is expected if they receive funding. As AT&T explained, service providers would apply for funding, detailing how and where they would use the funds to deploy either broadband or mobile wireless infrastructure in underserved rural areas.⁸ As discussed in more detail below, the Commission (in cooperation with the states, which would determine whether a particular area for which a service provider seeks funding is underserved based on Commission-established criteria) would select which projects to fund under the pilot program. Service providers receiving funding would have to commit to invest in facilities to provide broadband (or wireless, as the case may be) service in accordance with Commission-defined criteria in the relevant area within two years, and to offer such services in that area at an affordable rate for a specified period of time, such as five years.

Time Warner's and Sprint's claim that broadband Internet access services are ineligible for universal service support because the Commission has classified them as information services⁹ is specious. As AT&T observed in its opening comments, a central pillar of the 1996 Act, and section 254 in particular, is Congress's overriding objective of encouraging the rapid deployment of advanced telecommunications capability to all Americans, and ensuring that consumers in rural America do not lag behind their fellow citizens in access to the advanced telecommunications and information services made possible by that capability.¹⁰ As Congress

⁸ By "underserved" areas, AT&T means (in the case of broadband) rural areas in which service providers have not deployed facilities and equipment capable of providing the Broadband Pilot Program supported service. In the case of mobile wireless, AT&T means rural areas that lack reliable mobile wireless services. As AT&T explained in its opening comments, funding should be targeted (at least initially) to rural areas in the service territories of price cap carriers, after which the Commission can evaluate whether to broaden the scope of the programs to include other rural areas. AT&T Comments at 12-13.

⁹ Sprint Comments at 16-17; Time Warner Comments at 7-9.

¹⁰ AT&T Comments at 9.

made clear in the preamble to that Act, the market opening, universal service, deregulatory and other provisions of the 1996 Act were not ends in and of themselves, but rather were directed toward the higher goal of promoting deployment of advanced telecommunications and information services and capability: “AN ACT To promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and *encourage the rapid deployment of new telecommunications technologies.*”¹¹ Lest there be any doubt, Congress stipulated in section 706 of the Act that the “Commission and each State commission with regulatory jurisdiction over telecommunications services *shall* encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to *all Americans.*”¹² In section 254 itself, the Commission repeatedly admonished that rural America was not to be left behind by the digital revolution, and that state and federal universal service policies and rules should be designed to ensure that consumers in rural America have access to telecommunications and information services – including advanced telecommunications and information services – that are reasonably comparable to those available in urban areas.¹³ And, in section 254(a), Congress specifically directed the Commission to adopt rules to implement section 254.¹⁴ In light of these provisions, Time Warner’s suggestion that Congress would have so clearly committed to the Commission the obligation to ensure the deployment to all Americans of advanced telecommunications capability – including advanced

¹¹ 1996 Act Preamble (emphasis added).

¹² *Id.* at § 706 (emphasis added).

¹³ 47 U.S.C. § 254(b)(2) (“Access to advanced telecommunications and information services should be provided in all regions of the Nation.”); § 254(b)(3) (“Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”).

¹⁴ 47 U.S.C. § 254(a).

telecommunications and information services – but then denied it the authority to fulfill that commitment is little short of absurd.

In any event, the fact that section 254(c) defines universal service as “an evolving level of telecommunications services,”¹⁵ by no means limits the Commission’s authority to execute its obligation to encourage deployment of broadband and IP-enabled services, which are interstate information services – including through the disbursement of universal service support.

Irrespective of the precise contours of the Commission’s specific mandate under section 254(c), the Commission retains its more general authority under Title I “to make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, . . . wire and radio communication service with adequate facilities at reasonable charges.”¹⁶ Nothing in the text or legislative history of section 254 suggests that Congress intended to limit that authority in any way. Indeed, as discussed above, Congress plainly contemplated, in enacting section 254, that the definition of universal service would evolve to reflect technological innovation, including the development and expansion of information services.¹⁷ Consequently, even if section 254 does not explicitly *authorize* support for information services, it would be a vast overriding of that provision to read it as *prohibiting* the Commission from providing such support to advance the general mandate of section 151, which supplied the Commission with ample authority to maintain a universal service program for more than a decade before Congress

¹⁵ 47 U.S.C. § 254(c).

¹⁶ *Id.* at § 151.

¹⁷ *See id.* § 254(c) (defining universal service to “tak[e] into account advances in telecommunications and information technologies and services”); § 254(b)(2) (requiring the Commission and states to base universal service policies and rules on the principle that “[a]ccess to advanced telecommunications and information services should be provided in all regions of the nation”); § 254(b)(3) (requiring universal service to be based on the principle that “[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas”).

enacted section 254 in the 1996 Act.¹⁸ The Commission therefore has authority to provide universal service support to encourage the deployment of broadband, and, in particular, to adopt AT&T's proposed broadband pilot program (in addition to its proposed wireless pilot program).

In response to requests by members of the Joint Board during recent ex parte discussions, AT&T provides the following additional details concerning its proposal that the Commission establish a pilot program to provide targeted support for broadband deployment in rural areas where such investment is necessary to meet congressional universal service objectives. With this additional detail, the Commission and states could immediately operationalize the broadband pilot (as well as the wireless pilot program), and quickly bring the benefits of broadband deployment to rural areas where (due to market forces) consumers lack access to advanced telecommunications and information services reasonably comparable to those in urban areas.

a. Additional Details Concerning the Broadband Pilot Program

As discussed in its opening comments, AT&T proposes that the Commission establish a pilot program to support deployment of broadband infrastructure in underserved rural areas, under which the Commission (in cooperation with the states) would distribute a specified amount of funding (such as \$1 billion per year for two years) to support new capital investment in telecommunications infrastructure necessary to provide consumers in such areas access to advanced telecommunications and information services comparable to those offered in urban areas. The Commission would define in advance the general parameters of the infrastructure to be deployed under the program, which should be infrastructure meeting the definition of

¹⁸ The Commission further has authority to adopt mechanisms to support deployment of broadband infrastructure under its broad authority under section 201 to adopt rules to carry out the provisions of the Act, as well as its ancillary authority under sections 303(r) and 154(i). 47 U.S.C. § 1544(i) and 303(r). And, as an additional “belt and suspenders” measure to ensure that it has sufficient authority to support broadband and IP-enabled information services, the Commission could exercise its authority under section 10(a) to forbear from the provisions in sections 254(c)(1) and 254(e) to the extent they limit universal service support only to telecommunications services.

“Advanced Telecommunications Capability” set forth in section 706 of the 1996 Act,¹⁹ and capable of providing the supported broadband Internet access service.²⁰ The Commission also would establish specific criteria for identifying rural areas for which funding would be available, which, as discussed below, would be identified in the first instance by state commissions.

As AT&T explained in its comments, to ensure that support is targeted only where it is needed, the geographic area for broadband infrastructure projects funded under the pilot program should be the rural areas of price cap ILEC service territory. The Commission could rely upon relatively small, standard areas such as Census Block Groups for purposes of identifying these specific rural service territories.²¹ In particular, the Commission should define “rural” as that term is used in the 2000 Census.²²

In the 2000 Census, the Census Bureau classified as *rural* all territory, population, and housing units located outside of urbanized areas (UAs) and urban clusters (UCs). The Census Bureau classified as *urban* all territory, population and housing units located within a UA or a UC, and delineated UA and UC boundaries to encompass densely settled territory, which consists of: (1) core census block groups or blocks that have a population density of at least 1,000 people per square mile; and (2) surrounding census blocks that have an overall density of at least 500 people per square mile.²³

¹⁹ 1996 Act, § 706(c)(1) (“The term ‘advanced telecommunications capability’ is defined, without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.”).

²⁰ As discussed in AT&T’s comments, the Commission should identify other criteria for the supported service beyond those contained in the definition of advanced telecommunications capability, such as that the broadband Internet access service must have a downstream transmission capability of up to 1.5Mbps.

²¹ AT&T Comments at 11.

²² http://www.census.gov/geo/www/ua/ua_2k.html.

²³ *Id.*

The Commission should use an application process to determine, in cooperation with the states, which rural areas should receive funding under the Broadband Pilot Program. Specifically, the Commission should identify in advance which Census Block Groups are rural and within the service territories of price-cap carriers so that potential applicants for funding know the geographic areas that may be eligible for funding. But rather than identifying in advance which specific Rural Census Block Groups actually are underserved and thus eligible for funding (which likely would take the Commission months, if not years, given the data it would have to collect and review), the Commission should rely on applicants themselves to identify the underserved areas they intend serve if their application for Broadband Pilot Program funding is selected. The applications would be submitted to appropriate state commissions for their review and determination of whether the areas contained in the applications are underserved and qualify for funding based on objective, Commission-defined criteria – similar to the way in which state commissions identify wire centers in which ILECs no longer need to unbundle certain loop and transport UNEs. For this purpose, the Commission should define rural areas as “underserved,” and thus eligible for broadband pilot support, to the extent the supported service is not *substantially available* to households within the rural service area for which the applicant seeks funding.²⁴

Under the pilot, a service provider would file an application identifying a specific rural area that is “underserved” by broadband today, and for which the service provider seeks funding to deploy facilities and equipment capable of providing the broadband Internet access service supported by the pilot program. The area for which an applicant seeks funding would have to be

²⁴ The Commission would have to establish a specific criterion or other measure for determining whether the supported service is not substantially available, such as, for example, that 85% of the households in the service area for which the applicant seeks funding do not have access to the supported service.

within the rural service area of a price cap ILEC. Applicants would be permitted to group multiple underserved rural areas together in a single application in order to achieve economies of scale and scope by deploying facilities to serve multiple geographic areas.²⁵

The relevant state commission would perform an initial screening function to determine whether a particular application meets the Commission's pre-defined eligibility criteria for program funding. Specifically, the state commission would review the application in the first instance to determine whether the rural area covered by the application is underserved according to Commission-defined criteria (*i.e.*, that the supported service is not substantially available in the geographic area covered by the application). The state commission could make this assessment in a variety of ways (such as utilizing the reports provided by entities like Connect Kentucky, putting the application out for public comment and allowing interested parties to submit evidence as to whether the area is underserved, *et cetera*), provided that the state commission would have to complete its review within a specified period of time. If the state commission concludes the relevant rural area is not "underserved," the application would not be eligible for Broadband Pilot Program funding and would be rejected.

The state commissions also would determine whether a particular application satisfies other Commission-defined eligibility criteria. These criteria should include:

- (1) The applicant meets specified financial qualification criteria.
- (2) The application includes a build out plan, which should include a deployment schedule for the supported service, and should not exceed two years.
- (3) A commitment by the applicant to provide the supported service to all households in the underserved rural area it proposes to serve (that is, the portion of its service area covered by its funding application).
- (4) A commitment by the applicant to offer the supported service at an affordable rate.

²⁵ AT&T Comments at 15.

- (5) A commitment by the applicant to provide the supported service within its designated service area for a minimum of 5 years following completion of its build out.
- (6) A declaration that the designated service area for which funding has been requested is located in an underserved rural area.
- (7) The applicant should identify the facilities and equipment it will deploy using the requested funding to offer the supported service in the underserved rural area covered by its application.

If a state commission concludes that a particular application satisfies these Commission-defined criteria, it would forward the application on to the Commission to determine whether to approve the application and fund the proposed capital infrastructure investment project.

Because funding under the pilot program will be limited, and likely will not be sufficient to support broadband deployment in all underserved areas, it is likely that the pilot program will be oversubscribed.²⁶ In that event, the Commission should select which applications will receive funding by ranking applications. Applications that would provide the supported service to the largest number of households should receive the highest ranking and higher priority than those that would serve fewer households at a higher cost per household.²⁷ Applying such ranking criteria would maximize the number of households in underserved rural areas that will obtain access to broadband Internet access service, and thus provide the greatest bang for the limited

²⁶ While not likely, it is possible that the total funding requested in eligible applications will fall below the amount of Broadband Pilot Program funding available for both program years (*i.e.*, \$2 billion), in which case the Commission would not be obligated to distribute the full amount of funding. Likewise, even if the total amount of funding requested falls below the amount of funds allocated, the Commission would not have to disburse funding for all applications that pass the initial state commission eligibility review, but rather could reject applications that meet the minimum eligibility criteria if it concludes that a particular application would use funds inefficiently or otherwise would produce little benefit (in terms of the number of additional households to which broadband could be deployed) relative to cost.

²⁷ The Joint Board should consider whether applications that deploy the supported service in the shortest period of time should be ranked higher than applications that propose a longer build out period to deploy the supported service.

number of bucks available.²⁸ Again, as AT&T recommended in its initial comments, the Commission should aim to fund a variety of projects, large and small, and in different regions, to maximize the experience it will obtain under the pilot, funding broadband deployment in areas with disparate topographies and demographics. In ranking applications, the Commission should try to achieve some geographic balance, funding projects in different regions of the country. Finally, the Commission should grant funding only to one provider for any particular area if more than one provider applies for funding to deploy broadband in a particular area in order to reduce the cost of broadband deployment to the fund, and ensure that funds are available to as many areas as possible.

AT&T recommends that the Commission select the winning applications for Broadband Pilot Program funding in one round of applications prior to the start of the first program year (that is, identify winning applicants for both funding years prior to the first year, but disbursing no more than \$1 billion in funding in each year of the program). Doing so would reduce administrative and transaction costs associated with identifying underserved areas eligible for funding, and selecting winning applications.²⁹

AT&T re-emphasizes here that any funding disbursed under the Broadband Pilot Program should not reduce any funding an applicant receives under the Commission's existing high cost support mechanisms for non-rural carriers. Those mechanisms already are underfunded and fail to provide sufficient support to ensure that purportedly "non-rural" carriers can continue to provide affordable basic telecommunications services in rural areas as

²⁸ Alternatively, the Commission could assign a higher ranking to those rural areas that have the least broadband investment today (for example, some areas may have no broadband service, while others may have service at 256 kbps or higher, but below the level of the supported service). In AT&T's view, the Commission should target the low hanging fruit first, and get broadband out to as many underserved rural areas and consumers as possible.

²⁹ Alternatively, two application cycles could be established, one held before each of the two program years.

competition in more densely populated areas continues to rapidly expand. Because reducing the already limited high cost support distributed to non-rural carriers to offset any funding they receive under the Broadband Pilot Program would discourage participation in the pilot and undermine their ability to meet their other universal service obligations in other rural areas, the Commission should, as AT&T has advocated, administer the Broadband Pilot Program wholly separate from the existing high cost mechanisms.

3. The Commission Should Better Target “Non-Rural” Support to Areas That Need it.

As noted above, one of the primary causes of the problems plaguing the existing federal high cost support regime is the failure of that regime to identify and target support to those rural areas where support is needed to meet congressional universal service objectives. Instead, the existing federal high cost support mechanisms provide little or no support to so-called “non-rural” carriers to provide affordable services to millions of customers in high cost rural areas, even as they provide significant and duplicative support to fund redundant networks in order to promote competition in high cost rural areas in which costs are prohibitively expensive for even one carrier.

As a consequence, AT&T agrees with Embarq that any reform of universal service must begin with the elimination of state-wide averaging for purportedly non-rural carriers.³⁰ In addition, the Commission should aim not simply to disaggregate and more narrowly target support in areas that already are receiving it. As Embarq correctly points out, existing support is woefully insufficient in many areas.³¹ Achieving lasting reform that finally addresses the problem of rapidly eroding implicit subsidies and provides support to all high cost areas that

³⁰ Embarq Comments at 2-4.

³¹ *Id.* at 13-15.

need it, at levels that will ensure that congressional universal service objectives are met in a competitive environment, will require more than simply shuffling the chairs on the deck. Rather, in determining where to target support, as well as how much support to disburse, the Commission should disaggregate costs and calculate support at a more granular level, such as on the basis of an individual wire center, so that the high costs of serving a particular high cost rural area are recognized rather than netted out.

4. Adoption of a Reverse Auction Distribution Methodology Should Not Be an End in and of Itself.

In prior rounds of comment in this docket, AT&T has firmly supported adoption of a reverse auction mechanism to disburse high cost universal service support, provided such a mechanism is properly implemented.³² Such a mechanism could be a more efficient and effective way to determine the amount of support required and to target support where it is needed to achieve Congress's universal service objectives, as set forth in section 254(b) of the 1996 Act, and thus offers significant advantages over the existing mechanism. But, simply implementing a reverse auction disbursement mechanism to replace the existing mechanisms for distributing high cost support for "non-rural" carriers with no change in the already, demonstrably insufficient amount of support distributed to purportedly non-rural carriers or in the areas receiving support will do nothing to advance congressional universal service objectives. Moreover, the amount and level of support currently disbursed under the existing high cost support regime for non-rural carriers are the product of mechanisms that the Tenth Circuit already has rejected repeatedly for failing to comply with the requirements of section 254.

³² AT&T Comments, WC Docket No. 05-337, filed Oct. 10, 2006 (AT&T Auction Comments); AT&T Reply Comments WC Docket No. 05-337, filed Nov. 8, 2006 (AT&T Auction Reply Comments).

Verizon's auction proposal, which would cap high cost support at amounts currently disbursed under the existing, flawed mechanisms and limit support only to those areas currently receiving it (albeit at a more granular level), not only fails to target support to all areas where it is needed, it also would perpetuate the flawed practice of directing support to multiple, redundant networks by awarding support to one auction winner per network platform, increasing the cost of universal service without achieving measurable progress toward achieving federal universal service objectives. Similarly, CTIA's "winner takes more" auction proposal would subsidize redundant networks and providers, unnecessarily increasing the size of the fund without promoting achievement of universal service objectives. Accordingly, both these proposals should be rejected.

5. Conclusion.

For the foregoing reasons, the Commission should modify its high cost universal service support rules as discussed herein, and, in particular, adopt pilot programs to fund new capital investment in broadband and mobile wireless infrastructure in high cost rural areas.

Respectfully submitted,

/s/ Christopher M. Heimann

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
AT&T Inc.
1120 20th Street, N.W., Suite 1000
Washington, D.C. 20036
(202) 457-3058 (bus.)
(202) 457-3074 (fax)

Its Attorneys

July 2, 2007