

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Federal-State Joint Board on Universal) WC Docket No. 05-337
Service Seeks Comment on Long Term,)
Comprehensive High-Cost Universal)
Service Reform)

REPLY COMMENTS OF
TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.

I. INTRODUCTION

Texas Statewide Telephone Cooperative, Inc. (TSTCI) offers these reply comments regarding long term, comprehensive high-cost universal service reform. TSTCI is an association representing 39 small, rural incumbent telephone companies and cooperatives in Texas (see Attachment I).

As the Federal-State Joint Board on Universal Service (Joint Board) and Commission consider reforms to the high-cost universal service program, TSTCI believes it is crucial to the public interest to retain those elements of the current mechanism that successfully achieve the statutory objectives of universal service. Reform is required only to those aspects of the current mechanism that contribute to uncontrolled growth of the fund without any proof or accountability that the support is appropriate to the costs and investments in rural areas.

TSTCI continues to support the Joint Board’s recommendation to the Commission to eliminate the identical support rule, and TSTCI strongly believes that the most appropriate reform to the universal service mechanism is implementation of cost-based high-cost universal service support for competitive eligible telecommunications carriers (CETCs) TSTCI also urges the Joint Board to reject the use of reverse auctions and recommends that the embedded network cost mechanism be retained for the determination of universal service support for rural ILECs.

II. THE IDENTICAL SUPPORT RULE MUST BE ELIMINATED. SUPPORT FOR ALL ETCS MUST BE COST-BASED.

In its previously filed comments, TSTCI supports the Joint Board's recommendation that the Commission abandon the identical support rule. After reviewing comments filed in this proceeding, it is apparent that there is a broad range of consensus among not only incumbent local exchange carriers, but some wireless carriers, competitive local exchange carriers, consumer organizations and state regulatory bodies that the identical support rule (also known as the "portability" rule) should be abandoned.¹ As stated by the Nebraska Public Service Commission, "If the Commission continues to support multiple networks in a given area, the identical support or "portability" rule ...must be abandoned. Wireless carriers should be required to demonstrate their own costs...". Although the portability rule may have been "seen as an efficient manner to administer support, it does not accurately reflect the cost of service."² TSTCI is in full agreement with the Joint Board's recommendation that the Commission give notice to CETCs that "...identical support without cost justification may be an outdated approach to USF funding."³

As it stands today, the portability rule may be providing windfalls for many CETCs who receive immediate per-line universal service support for existing customers based on the unrelated costs and investments of small rural ILECs. The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) brings up a valid point when it calls attention to the fact that some of the largest wireless carriers in the country (who bear a closer resemblance to the Regional Bell Operating Companies than to the small, rural ILECs), receive per-line support amounts that were specifically designed for small, rural carriers. Currently, actual costs and investments of CETCs (particularly wireless CETCs) as they relate to the receipt of universal service support are unknown because CETCs are not required to provide their costs and investments to receive support. What is known is that there is explosive growth in the

¹ See comments of Rural Independent Competitive Alliance (RICA); CenturyTel. Inc.; Dobson Cellular Systems, Inc.; Windstream Communications; Nebraska Public Service Commission; National Association of State Utility Consumer Advocates (NASUCA);

² See Comments of the Nebraska Public Service Commission, page 11.

³ May 1st Recommended Decision, par. 5.

high-cost fund, and this growth is most likely caused in large part by the identical support rule for CETCs.

There are some commenters, primarily wireless carriers, that espouse retention of the identical support rule. The Rural Cellular Association and the Alliance of Rural CMRS Carriers (RCA/ARC), along with U.S. Cellular and Rural Cellular Corporation all argue that the identical support rule is the only way to distribute support on a competitively neutral basis. RCA/ARC states, “If one carrier receives more support than another, then it has an unfair competitive advantage in the marketplace.”⁴ Of course, this statement completely ignores the fact that one carrier, even when operating at peak efficiency, can have different costs and require different support than another in order to bring quality, affordable service to customers in rural high-cost areas.

As an example, a wireless carrier seeking ETC designation in only part of a rural telephone company’s service area, under current rules, receives support based upon the rural ILEC’s cost of serving the entire area, although the wireless ETC would not incur those costs. Later, RCA/ARC continues, “...wireless carriers do not advocate tying support to ILEC costs indefinitely. Whatever methodology the FCC chooses, it is important that the same amount of per-line support be provided to all entrants so that the playing field is leveled.”⁵ This statement ignores the fact that the playing field is not level, and the equal support rule does not make it so.

It is not always the incumbent ETC with the advantage, as CETCs like to claim. The Joint Board recognizes this fact when it points out the fundamental differences in the regulatory treatment between CETCs and incumbent ETCs ranging from carrier of last resort obligations, equal access obligations, and rate regulation.⁶ If wireless carriers truly do not want to tie universal service support to ILEC costs indefinitely, now is the time to make the change. Support to incumbent ETCs is cost-based; support to competitive ETCs is not. Instead of making the same amount of per-line support available to all ETCs, competitive ETCs should receive support based upon their own costs, just as incumbent ETCs do.

⁴ Comments of Rural Cellular Association and The Alliance of Rural CMRS Carriers, p. 18.

⁵ RCA/ARC, p 19.

⁶ Recommended Decision, WC Docket No. 05-337, CC Docket No. 96-45, Released May 1, 2007, par. 6.

To further discourage elimination of the identical support rule, the RCA/ARC continues, “Moreover, the administrative burden of calculating support based upon each carrier’s costs, and overseeing such calculations, for multiple technologies such as cellular, PCS, Wi-Max, satellite, 700 Mhz and others, will be enormous.”⁷ TSTCI has stated previously⁸ and continues to believe that each CETC’s actual booked investments and associated expenses used in the provision of supported services to rural customers should be taken into account when determining their universal service support. TSTCI does not suggest that CETCs should necessarily be held to the same accounting and separations requirements of the ILEC. A less burdensome process could be developed utilizing generally accepted accounting principles to determine the CETC’s costs of providing the supported services. The process should be simple enough to calculate, based on any CETC’s individual costs, but detailed enough that the cost could be verified. One potential method could be a cost-justified “surrogate” amount calculated based on the relationship of wireless to wireline costs of service in the rural areas.

TSTCI believes that universal service support for CETCs must be based on their actual cost of providing service in the rural areas, not those costs of the incumbent ETCs. As described by OPASTCO, “Cost-based support for CETCs in rural service areas would introduce the same rationality and accountability into the mechanism for these carriers that already exists for rural ILECs.”⁹ This would ensure that all ETCs receive sufficient support for their investment in high-cost areas, but eliminate any windfall amounts that have been propagated through the identical support rule.

II. REVERSE AUCTIONS ARE NOT NECESSARY FOR UNIVERSAL SERVICE REFORM

Although there is agreement among many parties regarding the elimination of the identical support rule as part of comprehensive universal service reform, there are various proposals regarding how universal service support should be determined in the absence of the identical support rule. Some parties espouse reverse auctions as the best method for

⁷ Comments of Rural Cellular Association and The Alliance of Rural CMRS Carriers, p. 18.

⁸ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Reply Comments of Texas Statewide Telephone Cooperative, Inc., Sept. 21, 2004, pp. 6-7.

⁹ Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies, pp. 10-11.

determining the amount of universal support and/or the recipients. For instance, the New Jersey Board of Public Utilities recommends that the identical support rule be immediately eliminated and that funding of multiple ETCs be reduced and ultimately eliminated through the use of reverse auctions.¹⁰ Verizon and Verizon Wireless also support elimination of the identical support rule as “part of broader and more comprehensive universal service reform” which they believe should include a market-based reverse auction system.¹¹

TSTCI continues to oppose the use of reverse auctions for the determination and distribution of universal service support. There is little agreement on the structure of reverse auctions – ranging from Verizon’s “winner takes all” approach to Alltel and CTIA’s multiple winners proposal. As the National Exchange Carrier Association points out, “There is no agreement on the optimum term for service contracts. There is no consensus on the scope, number of types of services that should be offered, or the regulatory treatment of incumbents, stranded infrastructure, eligibility rules, rules governing bid withdrawals or problems with the auction process itself (e.g. collusion, cherry-picking, etc.).”¹²

TSTCI believes, along with others, that auctions will in fact serve as disincentive to invest¹³, and as an untested theory will put at risk the successful universal service program that has brought quality service at affordable rates to rural America. Auctions are unnecessary when the appropriate method of determining universal service support should be through each carrier’s costs. TSTCI reiterates its belief that reverse auctions are not a viable option for determining and distributing universal service support, with the possible exception of areas that are currently unserved.

¹⁰ See Comments of the New Jersey Board of Public Utilities, p. 11

¹¹ See Comments of Verizon and Verizon Wireless, pp. 14-15.

¹² See Comments of the National Exchange Carrier Association, Inc., pp. 5-6.

¹³ See Comments of Mid-Rivers Telephone Cooperative, Inc. p.7.; Comments of the Rural Telecommunications Group, Inc., p. 2.

III. EMBEDDED COST-BASED SUPPORT FOR RURAL ILECS IS APPROPRIATE

TSTCI contends that the rural ILEC mechanism for determining universal service support - embedded costs - should be retained. The embedded cost-based support mechanism for rural ILECs serves rural consumers well and continues to successfully implement the statutory objectives of universal service. This mechanism has made it possible for rural ILECs to provide quality services to rural consumers, including advanced services, at rates comparable to those provided in urban areas.

Several commenters argue that the embedded cost methodology should be abandoned and replaced with other mechanisms for determination of support. Some recommend the use of cost models instead of embedded costs.¹⁴ As explained by OPASTCO, for rural ILECs the embedded-cost mechanism is rational and accountable to the public. It is the ILECs' actual past investments and expenses that determine the support received, and they are required to submit data demonstrating that their costs exceed the high-cost benchmark in order to qualify for support. This ensures that the rural ILEC's support is no more than sufficient and provides assurance that the support has been used for its intended purposes, as required by Section 254(e).¹⁵

The diversity that characterizes the rural companies and the geography they serve is too diverse for a cost model to determine accurate estimates of costs for all rural telephone companies. Universal service support is critical to many small ILECs. If a cost model were used to determine support for the small ILECs, any potential miscalculations in costs and the support required as determined by a model could potentially jeopardize these companies' ability to provide high-quality service at affordable rates. TSTCI agrees with OPASTCO that to determine universal service support based upon assumptions in a model, when actual costs and investments are available and accurate, would deter network investment and not serve the objectives of universal service.

¹⁴ Alltel Wireless;

¹⁵ Comments of OPASTCO, p. 6.

IV. CONCLUSION

TSTCI appreciates the opportunity to provide these comments and respectfully requests that the Joint Board not attempt to solve problems with the high-cost fund by recommending high-risk alternatives to the current system, such as the use of reverse auctions to determine universal service support. Eliminating the identical support rule which has contributed to the huge growth in the high-cost fund is a needed reform to provide universal service support on the basis of the cost of service – not the ILEC’s costs – but on each individual carrier’s costs. This is a rational and accountable method of determining high-cost universal service support for CETCs.

The embedded-cost method of determining high-cost universal service support should be retained for rural ILECs. Cost models do not take into account the actual costs and variables unique to individual small rural ILECs in determining high-cost universal service support.

Respectfully submitted,
Texas Statewide Telephone Cooperative, Inc.

A handwritten signature in cursive script that reads "Cammie Hughes".

By: Cammie Hughes
Authorized Representative

TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.

Alenco Communications, Inc.
Big Bend Telephone Company, Inc.
Brazos Telecommunications, Inc.
Brazos Telephone Coop., Inc.
Cameron Telephone Company
Cap Rock Telephone Coop., Inc.
Central Texas Telephone Coop., Inc.
Coleman County Telephone Coop., Inc.
Colorado Valley Telephone Coop., Inc.
Comanche County Telephone Company, Inc.
Community Telephone Company, Inc.
Cumby Telephone Coop., Inc.
Dell Telephone Coop., Inc.
E.N.M.R. Telephone Coop., Inc.
Eastex Telephone Coop., Inc.
Electra Telephone Company
Etex Telephone Coop., Inc.
Five Area Telephone Coop., Inc.
Ganado Telephone Company, Inc.
Industry Telephone Company, Inc.
La Ward Telephone Exchange, Inc.
Lake Livingston Telephone Company
Lipan Telephone Company
Livingston Telephone Company
Mid-Plains Rural Telephone Coop., Inc.
Nortex Communications, Inc.
North Texas Telephone Company
Panhandle Telephone Coop., Inc.
Peoples Telephone Coop., Inc.
Poka Lambro Telephone Coop., Inc.
Riviera Telephone Company, Inc.
Santa Rosa Telephone Coop., Inc.
South Plains Telephone Coop., Inc.
Tatum Telephone Company
Taylor Telephone Coop., Inc.
Wes-Tex Telephone Coop., Inc.
West Plains Telecommunications, Inc.
West Texas Rural Tel. Coop., Inc.
XIT Rural Telephone Coop., Inc.