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) (FCC 08-22)

COMMENTS OF THE
ALABAMA PUBLIC SERVICE COMMISSION

The Alabama Public Service Commission (AL-PSC) hereby submits the following comments on the Federal-State Joint Board's proposal to utilize competitive bidding procedures, referred to as "reverse auctions" to determine high cost universal service funding for eligible telecommunications carriers (ETCs) (FCC 08-5) and the proposal to eliminate the Commission's current "identical support" rule which provides competitive ETC's with the same per-line high cost universal service support amounts that incumbent local exchange carriers (LECs) receive (FCC 08-4).
.

The AL-PSC has concerns about the use of reverse auctions for determining the amount of high-cost universal service support provided to eligible telecommunications carriers serving rural, insular, and high cost areas. Reverse auctions are not the best option to address the size and growth of the Universal Service Fund.

Implementation of reverse auctions may result in more damage to the provision of Universal Service support in rural areas. The Rural Telephone Finance Cooperative (RTFC), in its comments for Docket 05-337, provides a financial perspective that clearly demonstrates the potential negative consequences associated with changing the method used for determining high-cost universal service funding to rural ETCs. RTFC indicates it has outstanding loans to rural telecommunications providers, valued at more that two billion dollars, whose repayment is predicated upon existing or increased high cost support.[1]

[1] Comments of the Rural Telephone Finance Cooperative

A decision to use Auctions/Competitive bidding to determine the high cost of USF funding for incumbent rural local exchange companies (RLECs) will discourage investment in rural infrastructure and result in lesser quality service to rural areas. Without assurance of stable and sufficient high cost USF funding, RLECs will find it difficult to prove to lenders that their financing proposals are feasible. Competitive bidding by RLECs for high cost support would have dire consequences for infrastructure investment and service quality. The consequences include decreased access to services and eventual service quality deterioration for many rural consumers. With reverse auctions, bid price is the overriding determinant for high cost support in rural areas, which emphasizes providers or technologies with greater economies of scale rather than those most in need of support. The original intent of high cost support was to make adequate capacity and reliable service quality available to consumers where such facilities and service quality are lacking due to the expense required to serve consumers in such areas. Reverse auctions will no doubt achieve the desired intent of reducing the number of carriers receiving support. This is quite likely at the expense of consumers living in areas served by smaller providers with fewer economies of scale, where the support is most needed. The AL-PSC believes that reverse auctions are not the best solution to temper the size and growth of the USF.

Changing the method of high cost allocation is not without consequences for past USF expenditures and future prices. Some of the network in rural areas was constructed with a combination of USF High Cost support and external capital with the expectation that the USF support would continue. Should those utilities no longer receive USF support due to changes in the allocation method, the costs of past construction projects must nevertheless be recouped. Under an auction scenario, support would no longer be predictable, as required by the Act. If an auction were to be won by a non-ILEC, there would be substantial and sudden shifts of revenue that might require undue regulatory intervention to include increased consumer prices.

If an auction process is implemented, the potential wireline and wireless recipients of USF support in each study area should be limited according to the providers' existing service "footprint" in the study area. The initial objective should be to make quality universal service available to the maximum number of un-served or underserved consumers before consideration is given to expanding the consumers' choice of potential providers.

The APSC agrees with the Joint Board recommendation that the Commission should replace the current identical support rule with a requirement that a competitive ETC demonstrate its own costs in order to receive support. Universal service support should be based on the ETC's own specific costs of providing services rather than "piggy backing" on the costs specific to an unrelated carrier. Additionally, there is no way to justify identical USF support to providers who use an altogether different telecommunications technology than the carrier on which the costs are based.

The FCC should require a Competitive ETC seeking high cost support to separate costs into network components in a similar manner as LECs so that their costs can be compared to the incumbent LECs' costs benchmarks for purposes of determining whether a competitive ETC qualifies for high cost support. If the FCC requires the disaggregating of costs into network components and associated costs in a wireless environment, the FCC should develop a system of accounts for competitive ETCs, including wireless carriers that mirror the Part 32 accounts to calculate the wireless ETC's costs to provide the services.

The record on the Joint Board's recommendation of portable support payments was based on the belief that the ETC would compete directly against the incumbent LECs for existing customers. Instead the competitive ETCs offered services that were totally different and were not viewed by consumers as substitutes for the existing services. In many households every member of the family has a personal cell phone as well as access to the traditional landline phone.

The Identical Support rule provides little incentive for ETCs to invest in building their own facilities in rural areas with low population density because their support currently is based solely on the per-line support received by the incumbent, instead of investment in the network.

The FCC has shown in the Notice of Proposed Rulemaking that while the support to the incumbent LEC has been flat or even decreased since 2003, competitive ETC support from 2001 through 2006 grew from under $17 million to $980 million. Competitive ETCs received $557 million in high-cost support in the first six months of 2007. When this amount is annualized it projects that the ETCs will receive approximately $1.11 billion in 2007. We believe that such support is excessive because it is not based on the competitive ETC's own network costs.

The wireless spectrum costs should be included in the high-cost support cost to the extent that the competitive ETC actually paid for the spectrum either via an auction or by purchasing the spectrum on an open market. Wireless hand sets should not be treated as an allowed expense. Hand sets are purchased by subscribers rather than leased to customers by carriers.

Competitive ETCs should use Generally Accepted Accounting Principles and the accounting methodologies should be the same as those used to provide information about the company's performance to parties such as investors and creditors. The cost of capital should be the 11.25 percent which is the average cost of capital used by the Commission in its forward-looking model in other regulatory proceedings. Depreciation expense, computed consistent with GAAP, should be used in determining total network cost. Operating and maintenance expenses should be based on the actual expenses incurred. Allocation of corporate overhead should be comparable to the limits imposed on rural and non-rural carriers. All elements of the cost report should be subject to audit.

The competitive ETCs, for the most part, are in the infancy of establishing networks in rural areas, thus their initial subscribership will be low. Thus, the competitive ETC should be required to project subscribership for at least 3 years. The competitive ETC does not have the requirement of being the provider of last resort throughout the entire current study area of an ILEC. This allows for choices as to which wire center market to enter. Therefore, the per line support for a competitive ETC should at least be capped at the level below that of the incumbent LEC.

The Joint Board recommendation to create a Mobility Fund and a Broadband Fund has merit only if the Commission adheres to the concept of serving unserved areas. The Commission should require wireless carriers and broadband providers to present and carry out construction proposals for placing facilities in low density areas in order to receive universal service high cost support.

These new funds should be subject to oversight by the Commission in conjunction with state commissions. This oversight is necessary in order to ensure that carriers receiving high cost funds provide service to rural customers in low density rural areas and not just to customers who are easily served. In addition, such oversight should guarantee that the service provided is the same quality as that provided to urban customers.

Respectfully Submitted,

Mary E. Newmeyer

Federal Affairs Advisor

Alabama Public Service Commission
Address: P.O. Box 304260
Montgomery, Alabama 36130
April 16, 2008