

**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

**COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

By: Stuart Polikoff
OPASTCO
21 Dupont Circle NW
Suite 700
Washington, DC 20036
(202) 659-5990

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SUMMARY

As the FCC proceeds with comprehensive reform of the High-Cost program, it should be guided by the universal service principles in section 254 of the 1996 Act, as well as the Joint Board's goals for wireline COLR, broadband, and mobility services. The Commission should not abandon those parts of the existing High-Cost program that are accomplishing the statutory and Joint Board objectives, in a rational and accountable manner, in the process of reforming what has failed. Furthermore, if the Commission is committed to fulfilling the universal service goals set forth by Congress and the Joint Board, then it must ensure that there is sufficient funding available to do so.

The Commission should retain the high-cost support system for rural ILECs based on their embedded network costs. This system has encouraged prudent investment in rural infrastructure and has allowed rural ILECs to remain viable COLRs. It has also enabled many rural ILECs to make broadband services available to a large majority of their customers. In addition, the embedded cost-based system for rural ILECs is highly accountable to the public, requiring carriers to submit extensive data which is subject to multiple layers of review. It would be unwise to dismantle a support system for rural ILECs that is already efficiently accomplishing its objectives.

In order to address the rapid and unjustified growth in the High-Cost program, the Commission should proceed with its tentative conclusion to eliminate the identical support rule. In its place, at least in rural service areas, competitive ETCs should be required to demonstrate their own costs in order to potentially qualify for high-cost support. Cost-based support would incent competitive ETCs to expand their networks in high-cost areas and hold them to a similar level of accountability as rural ILECs for the support they receive. This would establish far greater assurance that the funding received

by *all* ETCs in rural service areas is no more than sufficient and is being used only for its intended purposes. Two feasible solutions for determining wireless competitive ETCs' costs and support amounts are the WiCAC proposal and the Panhandle proposal. Both have positive attributes and could be made to work together.

Rural ILECs should not be subject to a reverse auction mechanism, as it would seriously jeopardize the availability of "reasonably comparable" services and rates to consumers in rural service areas. Reverse auctions would create significant unpredictability for rural carriers as to whether they will be able to recover the costs of network upgrades, thereby inhibiting them from making necessary investments. Reverse auctions would also likely make the capital markets more reluctant about making new loans to rural ILECs. Another risk is that if a winning bidder (other than a rural ILEC) fails to meet the established universal service obligations, the ILEC may be irreparably harmed and unable to step back in to take over the role of COLR. In addition, the Commission's tentative conclusion that auctions should award support to a single winner conflicts with its acknowledgement that most consumers do not view wireline and wireless services to be direct substitutes.

Making matters worse is the Commission's proposal to establish an auction reserve price, which is simply a way of capping the High-Cost program without regard to the actual support carriers will need to meet the obligations established by regulators. For instance, it is unrealistic to expect that a reserve price based on current support levels will enable carriers to deploy broadband ubiquitously throughout their territories.

The Commission should establish separate support mechanisms for mobility and broadband that, among other things, encourage deployment of these services in areas

where they are presently unavailable. Creating separate mobility and broadband mechanisms would also make it easier for the Commission to allow the existing support mechanisms for rural ILECs that serve as COLRs to continue to operate essentially as they do today for these carriers.

The Commission should remove the cap on HCLS and refrain from capping the other support mechanisms that rural RoR ILECs rely upon for cost recovery and operating revenues. Rural ILECs need to continually upgrade their networks because the broadband connections that are available to consumers today will soon be considered antiquated and insufficient. The products, services, and applications that ride over the broadband network are becoming more and more bandwidth intensive and are requiring ever-higher data speeds to accommodate them. Thus, applying caps to rural RoR carriers' support mechanisms going forward would impede their ability to make available future generations of advanced services that will be deemed essential by businesses and households, and critical to the prosperity of rural service areas.

Finally, in order to secure the High-Cost program's long-term sustainability, the Commission should require all facilities-based broadband Internet access providers to contribute to the USF. This, along with elimination of the identical support rule, would allow for accountable, prudent growth in the High-Cost program and should sufficiently address any perceived need to cap any of the support mechanisms utilized by rural RoR carriers.

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I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in response to the three Notices of Proposed Rulemaking (NPRM) released on January 29, 2008 concerning comprehensive reform of the High-Cost universal service program. In the first NPRM¹, the Commission seeks comment on the rules governing the amount of high-cost support provided to competitive eligible telecommunications carriers (ETCs) and tentatively concludes that the existing “identical support” rule should be eliminated. In the second NPRM², the Commission seeks comment on the merits of using reverse auctions to determine the amount of high-cost support provided to ETCs. In the third

¹ *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (Identical Support Rule NPRM).

² *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (Reverse Auctions NPRM).

NPRM³, the Commission seeks comment on the November 20, 2007 Recommended Decision of the Federal-State Joint Board on Universal Service (Joint Board).⁴

OPASTCO is a national trade association representing over 600 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve more than 5.5 million customers. Almost all of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37). OPASTCO members offer a wide array of communications services to rural consumers in addition to the traditional telephone services they provide as ILECs. These include broadband Internet services, video services, mobile wireless services, long distance resale, and competitive local exchange service.

Almost all OPASTCO members receive support from the High-Cost universal service program, and for many, it is the source of a significant portion of their cost recovery and operating revenues. Thus, the actions the Commission takes as a result of this proceeding will largely determine the ability of many rural consumers to have access to high-quality, modern communications services at affordable rates in the future.

³ *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) (Recommended Decision NPRM).

⁴ *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477 (2007) (Recommended Decision).

II. THE COMMISSION'S REFORM OF THE HIGH-COST PROGRAM SHOULD BE GUIDED BY THE 1996 ACT'S UNIVERSAL SERVICE PRINCIPLES AS WELL AS THE JOINT BOARD'S GOALS FOR WIRELINE COLR, BROADBAND, AND MOBILITY SERVICES

As the Commission proceeds with comprehensive reform of the High-Cost universal service program, it is important that the universal service principles established by Congress in section 254 of the Telecommunications Act of 1996 (1996 Act, Act) serve as its primary guide. In particular, section 254(b) directs the Commission to focus on ensuring the following: the availability of quality services at just, reasonable, and affordable rates;⁵ access to advanced telecommunications and information services in all regions of the Nation;⁶ access for rural, insular, and high-cost areas to telecommunications and information services, including advanced services, that are reasonably comparable to those available in urban areas and at reasonably comparable rates;⁷ and, support mechanisms that are specific, predictable, and sufficient to preserve and advance universal service.⁸

In its November 2007 Recommended Decision, the Joint Board expands upon the 1996 Act's universal service principles to reflect the expectations and needs of today's consumers. Specifically, the Joint Board recommends that the nation's communications goals now include: (1) the provision of voice services by a wireline carrier (or provider) of last resort (COLR or POLR) at affordable and comparable rates for all rural and non-rural areas; (2) universal availability of broadband Internet services; and, (3) universal availability of mobile wireless voice services.⁹

⁵ 47 U.S.C. §254(b)(1).

⁶ 47 U.S.C. §254(b)(2).

⁷ 47 U.S.C. §254(b)(3).

⁸ 47 U.S.C. §254(b)(5).

⁹ Recommended Decision, 22 FCC Rcd 20478, 20480-20481, ¶¶4, 11.

As it considers reforms that will satisfy both the statutory and Joint Board objectives, the Commission should take stock of those parts of the existing High-Cost program that are already successfully achieving them, in a rational and accountable manner, versus those that are not. It would not serve the public interest to abandon those segments of the program that have a track record of success in the process of reforming what has failed. Taking this approach, the Commission should maintain the existing support system for rural ILECs based on their embedded network costs.¹⁰ This mechanism has been effectively and efficiently achieving the relevant universal service goals in rural service areas, and has held rural ILECs highly accountable for the support they receive. To replace such a productive system with reverse auctions, which inherently discourages network investment, would be imprudent and jeopardize the availability of “reasonably comparable” services and rates to consumers in these territories.¹¹

On the other hand, the Commission should proceed with its tentative conclusion to eliminate the identical support rule for competitive ETCs. The identical support rule has been the cause of all of the unnecessary growth in the High-Cost program, and has generally failed to provide the proper incentives to competitive ETCs to extend service to high-cost areas. Instead, high-cost support for competitive ETCs, at least in rural service areas, should be based on their own costs of providing service.¹²

In addition, the Commission should establish separate support mechanisms for mobility and broadband that encourage the deployment of service in areas where mobile

¹⁰ See, Section III, *infra*.

¹¹ See, Section V, *infra*.

¹² See, Section IV, *infra*.

wireless services and broadband Internet services are presently unavailable.¹³ By creating separate mechanisms for mobility and broadband, it would be easier for the Commission to allow the existing support system for rural ILECs that serve as COLRs to essentially continue to operate as it does today for these carriers.

Furthermore, if the Commission is truly committed to fulfilling the universal service objectives set forth by Congress and the Joint Board, then it must ensure that there is sufficient funding available to do so. Of course, it is essential that support payments to *all* ETCs are no more than sufficient and that *all* ETCs are held accountable for how they use the support they receive. It is important that consumers have confidence that the High-Cost program they pay for is being used solely to achieve its intended purposes and is not being abused.

That said, the Commission should come to terms with the fact that providing universal access to affordable and “reasonably comparable” wireline COLR services, broadband Internet services, and mobile wireless services will require a larger commitment in universal service funding than exists today, not smaller. For instance, in order to ensure that rural service areas have access to broadband services that are reasonably comparable to those available in urban areas going forward, the existing cap on the high-cost loop support (HCLS) mechanism should be lifted, and caps should not be imposed on the other support mechanisms utilized by rural rate of return (RoR)-regulated carriers.¹⁴ Commissioner Adelstein is on the mark when he states that “[m]aintaining our commitment to connectivity, particularly in the broadband age, is

¹³ See, Section VI, *infra*.

¹⁴ See, Section VII, *infra*.

more important than ever, and the Commission must start to provide realistic assessments of what will be required.”¹⁵

III. THE COMMISSION SHOULD RETAIN THE EMBEDDED COST-BASED SUPPORT SYSTEM FOR RURAL ILECS, AS IT HAS BEEN TREMENDOUSLY SUCCESSFUL IN ACHIEVING THE OBJECTIVES OF THE HIGH-COST PROGRAM IN AN ACCOUNTABLE MANNER

The Commission should retain the existing high-cost support system for rural ILECs based on their actual embedded network costs. This system has a proven record of success in fulfilling the relevant statutory and Joint Board universal service goals in rural service areas, and has done so in an accountable manner. Under the rural high-cost mechanism, a direct relationship is established between a rural ILEC’s actual network investments and expenses, and the support amounts they receive. It is this predictability and specificity as to each rural carrier’s costs that has encouraged prudent investment in rural infrastructure, including the multi-functional facilities necessary for the provision of broadband. As a result, consumers in areas served by rural ILECs generally have access to communications services that are affordable and reasonably comparable to those available in urban areas.

Rural ILECs typically incur higher-than-average operating and equipment costs on a per-subscriber basis due to uncontrollable factors such as: small and geographically dispersed customer bases, long distances between the customer and the switch, difficult terrain, and few high-volume businesses in the area. Nevertheless, the existing embedded cost-based support system has allowed rural ILECs to overcome these challenges, providing them with the proper incentives to build, maintain, and upgrade their ubiquitous networks. As a result, these carriers have been able to remain viable COLRs,

¹⁵ Recommended Decision NPRM, Statement of Commissioner Jonathan S. Adelstein, 23 FCC Rcd 1582-1583.

capable of providing high-quality voice services to *all* of the consumers in their territories. In particular, rural ILECs serve as a “lifeline” to the highest-cost customers for whom there are often no alternative providers of highly-reliable telecommunications services.

Embedded cost-based support has also been essential to providing consumers in high-cost rural service areas with rates that are affordable and comparable to those charged in urban areas. This is achieved by permitting rural ILECs to recover a greater proportion of their network costs from the interstate jurisdiction than they otherwise would. Absent this shift in cost allocation, rural ILECs would need to seek rate increases in order to recover the revenue shortfall, which would jeopardize the high level of connectivity to the public switched network that exists in rural service areas today. Furthermore, as a 2007 study by Keybridge Research found, “[t]he wireline network infrastructure, which carries wireline, wireless, and many IP voice calls, could itself be at risk [from rate increases] due to the cascading effects of households potentially exiting the telephone network.”¹⁶

In addition, the embedded cost-based support system has played a significant role in the success that many rural ILECs have had in making broadband Internet services available to a large majority of their customers. As the Joint Board’s Recommended Decision recognized, “[a] significant portion of the High-Cost Loop fund supports the capital costs of providing broadband-capable loop facilities for rural carriers.”¹⁷ Without the direct link between the cost of these broadband-capable investments and the support

¹⁶ Dr. Robert F. Wescott, Dr. Robert Cohen, Mark W. McNulty, “*Consumers At Risk: The Impact of Reduced Universal Service Fund Support on Telephone Service Affordability in Rural America*,” Keybridge Research LLC (Oct. 1, 2007), pp. ii, 18.

[http://76.12.79.232/webmasterpro/published/news/USF.Study.Final.V5.\(09.30.06\).pdf](http://76.12.79.232/webmasterpro/published/news/USF.Study.Final.V5.(09.30.06).pdf)

¹⁷ Recommended Decision, 22 FCC Rcd 20485, ¶30.

amounts provided, rural carriers would be highly reluctant to make the network upgrades necessary to provide advanced services. Moreover, the increased risk created by a support system not tied to rural ILECs' actual embedded costs would make the capital markets far more wary about extending financing to rural carriers. Thus, if rural ILECs are to continue deploying broadband to additional high-cost rural consumers, and to continue upgrading their networks to meet the ever-growing demand for faster data speeds, it is essential that their support system remain based on embedded costs.

Ongoing investment is necessary in order for the advanced services that are available in rural services areas to be reasonably comparable to those available in metropolitan areas.

Moreover, rural ILEC networks not only provide wireline communications services directly to end users, they also serve as the backbone for other platforms and services, including mobile wireless, Internet protocol (IP)-enabled services (such as voice over IP), and public safety systems. As a result, if rural ILECs were no longer able to continue investing in their networks or, even worse, if their existence was placed at risk, then the availability and/or reliability of these other platforms and services would be compromised.

Lastly, the embedded cost-based system for rural ILECs is entirely rational and highly accountable to the public. The support received by rural ILECs is based mostly on their own past investments and expense payments, and they must submit extensive data in order to potentially qualify for support. Furthermore, the data submitted by rural ILECs is subject to multiple layers of review, including external audits, National Exchange Carrier Association (NECA) cost study reviews, and potentially audits by state commissions and the Universal Service Administrative Company (USAC). This ensures

that the support each carrier receives is no more than “sufficient.” It also provides a high level of confidence that the support has been used only for its intended purposes, as required by section 254(e) of the Act.

In sum, the rural ILEC support system, based on embedded network costs, has been highly effective in providing rural service areas with ubiquitous access to high-quality wireline voice services at affordable and “reasonably comparable” rates. Likewise, it has been largely responsible for the ongoing dissemination of advanced services in these territories. The Joint Board agrees, acknowledging in their Recommended Decision the “...effectiveness [of the current rural High-Cost program] in maintaining an essential network for POLRs and in deploying broadband.”¹⁸ It would be unwise to dismantle a support system for rural ILECs that is already efficiently and accountably achieving its intended purposes.

IV. IN ORDER TO ADDRESS THE RAPID AND UNJUSTIFIED GROWTH IN THE HIGH-COST PROGRAM, THE COMMISSION SHOULD ABANDON THE IDENTICAL SUPPORT RULE AND BASE SUPPORT FOR COMPETITIVE ETCs IN RURAL SERVICE AREAS ON THEIR OWN COSTS

OPASTCO strongly supports the tentative conclusion reached in the Identical Support Rule NPRM that the Commission should eliminate the current identical support rule for competitive ETCs.¹⁹ In its place, at least in rural service areas, competitive ETCs should be required to demonstrate their own costs of providing service in order to potentially qualify for high-cost support. Responsible oversight of ratepayer-generated funding necessitates that competitive ETCs receive support amounts that are no more

¹⁸ *Id.*

¹⁹ Identical Support Rule NPRM, 23 FCC Rcd 1468, 1470, ¶¶1, 5.

than “sufficient” and that the support is used only for its intended purposes, as required by the Act.

The chart below presents data from USAC’s most recent quarterly Fund size projections for 2nd Quarter 2008, and compares it with Fund size projections for 2nd Quarters 2007, 2006, and 2005.²⁰ The data focuses solely on projected support for rural ILECs and competitive ETCs serving in rural telephone company service areas.

Rural High-Cost Program	2nd Quarter 2005 Support	2nd Quarter 2006 Support	2nd Quarter 2007 Support	2nd Quarter 2008 Support	Dollar Change 2ndQ 2005-2ndQ 2008	Percent Change 2ndQ 2005-2ndQ 2008
(\$Millions)						
Rural ILEC	\$624.2	\$622.6	\$625.0	\$621.6	(\$2.6)	(0.4%)
CETC	\$120.0	\$162.7	\$208.0	\$252.1	\$132.1	110.1%
Total	\$744.2	\$785.3	\$833.0	\$873.7	\$129.5	17.4%

This chart illustrates that quarterly support projections for competitive ETCs in rural service areas more than doubled over the past three years, growing from \$120 million in 2nd Quarter 2005 to \$252.1 million in 2nd Quarter 2008, an increase of \$132.1 million or 110.1 percent. This increase accounts for all of the growth in projected support in the rural High-Cost program over the past 12 quarters, since quarterly support projections for rural ILECs actually declined slightly over this same time period. Thus, it

²⁰ Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2008* (Feb. 1, 2008), Appendix HC01; Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2007* (Jan. 31, 2007), Appendix HC01; Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2006* (Jan. 31, 2006), Appendix HC01; Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2005* (Jan. 31, 2005), Appendix HC01. The support amounts presented for competitive ETCs reflect both existing competitive ETCs as well as competitive ETC applications that are pending. USAC includes support amounts for yet-to-be approved competitive ETCs in its Fund demand, which determines the contribution factor. Therefore, the inclusion of support amounts for pending competitive ETCs is appropriate in this type of analysis, since it is reflected in the contributions that carriers are required to make today.

is indisputable that the cause of the dramatic growth in the High-Cost program is the system which distributes support to competitive ETCs, otherwise known as the identical support rule.

Under the identical support rule, competitive ETCs receive the rural ILEC's cost-based per-line support amount for every "line" they are serving in the designated territory, rather than support based on their own network investments and expenses. As the Identical Support Rule NPRM accurately notes, this provides a competitive ETC with "...little incentive to invest in, or expand, its own facilities..." in high-cost rural areas.²¹ Instead, identical per-line support provides competitive ETCs with an incentive to focus on maximizing their "line" counts in portions of a service territory that they were already successfully serving in order to improve their profit margins and enhance their appeal to the investment community.²² As a result of this arbitrage opportunity, more carriers – wireless providers in particular²³ – have been incited to seek ETC status than otherwise would in order to receive support, but which is not tied to an incentive to build-out to unserved territory. Once a wireless carrier gains ETC status for a given service area, other wireless providers are then compelled to follow suit in order to compete on an "even playing field." Of course, this outcome is entirely at odds with the objectives and purposes of high-cost support and, unless the wireless carrier decides to use the money for its intended purposes, is an unfortunate waste of limited public funding.

²¹ Identical Support Rule NPRM, 23 FCC Rcd 1472, ¶10.

²² OPASTCO agrees with the Commission's tentative conclusion that the identical support rule "...bears no relationship to the amount of money such competitive ETCs have invested in rural and other high-cost areas of the country." *Id.*, 23 FCC Rcd 1470, ¶5. *See also*, Recommended Decision, 22 FCC Rcd 20486, ¶35.

²³ The Identical Support Rule NPRM correctly notes that "...wireless carriers...have received a majority of competitive ETC designations, serve a majority of competitive ETC lines, and have received a majority of competitive ETC support." Identical Support Rule NPRM, 23 FCC Rcd 1471, ¶9.

The Identical Support Rule NPRM asks whether requiring competitive ETCs to file cost data demonstrating their costs is consistent with the goal of competitive neutrality, given that the majority of competitive ETCs generally do not sell services that consumers view as direct substitutes for wireline services.²⁴ The fact that consumers generally view wireline and mobile services as complements rather than substitutes is irrelevant to whether a policy requiring competitive ETCs to submit their own costs is competitively neutral. All that is relevant is that competitive ETCs are seeking federal high-cost support collected from the nation's ratepayers, the same as rural ILECs. Therefore, good stewardship of these public funds demands that competitive ETCs operating in rural service areas be held to a similar standard of accountability as rural ILECs. It stands to reason that, irrespective of a carrier's technology platform, *high-cost* universal service support should only be received by those providers that incur *high costs*.

The FCC is correct to tentatively conclude that basing support for competitive ETCs on their own costs will "...better reflect real investment in rural and other high-cost areas of the country, and...create[] greater incentives for investment in such areas."²⁵ Since only those competitive ETCs that demonstrate above-average costs would qualify for funding, it would naturally incent these carriers to expand and improve their networks in high-cost areas that they likely would not have otherwise served. This is the fundamental purpose of the High-Cost program.

In addition, cost-based support for competitive ETCs in rural service areas would create true accountability for the funding these carriers qualify for since, like rural ILECs, support would be received only after approved costs have been incurred. Thus, cost-

²⁴ *Id.*, 23 FCC Rcd 1473, ¶12.

²⁵ *Id.*, 23 FCC Rcd 1470, ¶5.

based funding would effectively minimize the potential for wasteful payouts of windfall support amounts that do more to enrich a competitive ETC's shareholders than to benefit high-cost rural consumers.

There are certainly a number of reasonable methodologies the Commission could adopt for determining competitive ETCs' costs and support amounts in rural service areas. Any methodology which replaces the identical support rule should provide the proper incentives and the proper accountability, so that the issue of imprudent receipt of funding is addressed. Two feasible solutions for wireless ETCs that have already been placed on the record are the Wireless Carrier Actual Cost (WiCAC) proposal²⁶ and the proposal from Panhandle Telecommunication Systems, Inc.²⁷ Both of these proposals have positive attributes and could be made to work together.

The WiCAC proposal focuses primarily on a system for enabling wireless ETCs to file their own cost data for universal service purposes. Specifically, the proposal creates a cost reporting methodology for wireless ETCs that would utilize the existing Part 32 System of Accounts that rural ILECs use to report their costs in order to receive support. Notably, the proposal limits the number of accounts for wireless ETCs to 23 and the accounts are based on the types of network investments made by wireless carriers. A major benefit of the WiCAC proposal is that it would establish a reasonable degree of equity between the cost reporting requirements for rural ILECs and wireless competitive

²⁶ Letter from Jeffrey H. Smith, Advocates for Regulatory Action, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 05-337 and CC Docket No. 96-45 (fil. July 12, 2007) (WiCAC proposal).

²⁷ Letter from Kenneth C. Johnson, on behalf of Panhandle Telecommunication Systems, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45 (fil. Jan. 11, 2008) (Panhandle proposal). The Panhandle proposal also includes a methodology for determining wireline competitive ETC support.

ETCs. OPASTCO agrees with the WiCAC authors that, despite their arguments to the contrary, wireless ETCs surely have the ability to map their costs to 23 accounts.²⁸

While the WiCAC proposal concentrates on a system for wireless ETCs to report their costs, the Panhandle proposal is focused more on a methodology for calculating the support wireless ETCs would receive once their costs have been determined. Under the Panhandle proposal, a wireless ETC's per-minute cost of providing service is compared to a benchmark per-minute amount.²⁹ The benchmark per-minute amount is determined by taking the national average wireless cost per minute and applying a multiplier to it that varies based on the size of the wireless ETC. To the extent that the wireless ETC's cost per minute exceeds the appropriate per-minute benchmark, the carrier would be eligible to receive support for the above-benchmark costs.

The Panhandle proposal has several attractive aspects to it. First, to determine support amounts for wireless carriers, it compares a wireless ETC's costs to a wireless cost-based benchmark as opposed to using the same benchmarks to which ILECs' costs are compared. The Commission correctly states in the Identical Support Rule NPRM that wireless networks may be very different from wireline networks, which potentially results in very different costs.³⁰ Also, as the Commission has explained, consumers largely view wireless service as a complement to their wireline service, rather than as a direct substitute.³¹ Consistent with that, the Joint Board's Recommended Decision proposes separate wireline (POLR) and wireless (Mobility) support distribution mechanisms in an effort to promote the availability of both types of services throughout

²⁸ WiCAC proposal, p. 4.

²⁹ The WiCAC proposal could potentially be used in determining a wireless ETC's cost per minute.

³⁰ Identical Support Rule NPRM, 23 FCC Rcd 1477, ¶22.

³¹ *Id.*, 23 FCC Rcd 1471-1472, ¶¶9-10.

high-cost rural areas.³² Thus, it is appropriate for the support calculation methodology for wireless ETCs to have separate benchmarks from those used for wireline carriers.

Second, the Panhandle proposal would establish different high-cost benchmarks for Tier I, II, and III wireless carriers. The large, nationwide Tier I carriers would have the highest support threshold applied to them, while the lowest threshold would be applied to Tier III carriers. This recognizes that small wireless carriers operating mostly in rural areas will require more support than larger carriers serving primarily low-cost urban areas that offset the cost of serving the rural portions of their territory. It is also consistent with the existing bifurcation of the High-Cost program for rural and non-rural ILECs, which appropriately acknowledges the significant market and operational differences between them.

Lastly, the Panhandle proposal would require support recipients to allow other carriers licensed to serve in the same ETC service area to roam on their networks at a local wholesale rate.³³ By facilitating the establishment of roaming agreements between carriers within a market, it would increase the geographic area that mobile customers will be able to obtain a signal within their home territory and minimize the “dead spots” that they encounter. In addition, the in-market roaming obligation would discourage the inefficient build-out of duplicate networks in sparsely populated high-cost areas, and instead maximize the utilization of existing network infrastructure. As the minutes of use on existing high-cost rural networks increases as a result of new roaming agreements, it will cause the cost per minute of these networks to decline. This will result in wireless

³² Recommended Decision, 22 FCC Rcd 20480-20481, ¶11.

³³ The wholesale rate is the same as the per-minute benchmark used to determine a wireless ETC’s support.

ETCs requiring less support than they otherwise would, which benefits all ratepayers who ultimately pay for the High-Cost program.

While the WiCAC and Panhandle proposals are viable and complementary methods for determining wireless ETCs' costs and support amounts, they are certainly not the only reasonable solutions. What is important is that all competitive ETCs in rural service areas that seek high-cost support should be required to demonstrate their own costs and show that they exceed a certain threshold. This would hold competitive ETCs to a similar degree of accountability as rural ILECs for the support they receive. By doing so, it would establish far greater assurance that the funding received by *all* ETCs in rural service areas is no more than sufficient and is being used only for its intended purposes, as set forth by Congress and the Commission.

V. RURAL ILECS SHOULD NOT BE SUBJECT TO REVERSE AUCTIONS, AS IT WOULD JEOPARDIZE THE AVAILABILITY OF “REASONABLY COMPARABLE” SERVICES AND RATES TO CONSUMERS IN RURAL SERVICE AREAS

Rural ILECs should not be subject to a reverse auction support mechanism. The use of reverse auctions to determine the COLR and its support amount in rural service areas would place at significant risk the continued availability of modern, affordable basic and advanced communications services to consumers in these territories. OPASTCO agrees with Commissioners Copps and Adelstein that the Commission's review of auctions "...raise[s]...many more questions than it answer[s]",³⁴ particularly "...whether such mechanisms can provide adequate incentives for build out in Rural America."³⁵

³⁴ Reverse Auctions NPRM, Statement of Commissioner Michael J. Copps, 23 FCC Rcd 1526.

³⁵ *Id.*, Statement of Commissioner Jonathan S. Adelstein, 23 FCC Rcd 1528.

Reverse auctions do not naturally encourage network upgrades and service quality improvements that are critical to ensuring that consumers in rural service areas have access to high-quality services that are comparable to those available in urban areas. In fact, the opposite is true. Because auction winners would likely be chosen based on the lowest bid, participants would be driven to submit below-cost bids in an attempt to win the auction and receive at least some high-cost support, rather than receiving none at all. Consequently, bids would probably be well below what a carrier actually needs to maintain and upgrade its network to provide an evolving level of quality services in a high-cost rural service area.

Also, a reverse auction mechanism would generate significant unpredictability for carriers, which is the enemy of network investment. Telecommunications networks require large investments in long-lived infrastructure and without a reasonable expectation that these costs can be recovered, needed upgrades will not be made. This is particularly true for rural ILECs, which lack the highly profitable metropolitan regions and significant capital reserves that large, urban-based carriers benefit from.

If an auction term is too short, or is approaching completion, it is doubtful that a rural carrier would make any type of substantial network investment, for fear that they may not win the next auction and will be unable to recover the costs. Longer auction terms would also be problematic, because winning bids would be unable to account for changes in technology and customer expectations that are certain to occur over time. Thus, regardless of the length of time between auctions, there is a high likelihood that the services offered in rural service areas would not remain reasonably comparable to those offered in urban areas.

In addition, reverse auctions would threaten the outlook that lending institutions have of the stability and predictability of rural ILECs' core cash flows. Investors would certainly be troubled by the possibility of stranded investment that could result from an auction mechanism. This would likely make the capital markets more reluctant about making new loans to rural ILECs. At the very least, it would result in a higher cost of capital, making it more difficult for rural carriers to secure affordable financing for network improvements.

Another significant risk of reverse auctions is that should an auction winner (other than the rural ILEC) fail to fulfill the universal service obligations established by the Commission, or if the winner subsequently declares bankruptcy, a backup carrier may not exist to take over the role of COLR. By the time it is determined that the winning bidder is not performing satisfactorily, the previous COLR – *i.e.*, the rural ILEC – may be irreparably harmed by the loss of high-cost support and therefore unable to step back in to provide service to the highest-cost customers. In some cases, a rural ILEC, absent sufficient support, may no longer be a viable entity and seek to exit the market entirely. Certainly, it would be unreasonable for regulators to continue to impose COLR obligations on rural ILECs that are not auction winners.

In the Reverse Auctions NPRM, the Commission tentatively concludes that universal service support auctions should award high-cost support to a single winner.³⁶ This appears to conflict with the Commission's acknowledgement in the Identical Support Rule NPRM that "...the majority of households do not view wireline and wireless services to be direct substitutes"³⁷ and that "...wireless competitive ETCs

³⁶ *Id.*, 23 FCC Rcd 1501, ¶14.

³⁷ Identical Support Rule NPRM, 23 FCC Rcd 1471, ¶10.

largely provide mobile wireless telephony service in addition to a customer's existing wireline service.”³⁸ Thus, if a wireline carrier is not an auction winner in a particular area, some rural consumers may no longer have access to highly-reliable wireline services at affordable and “reasonably comparable” rates. Furthermore, because wireless carriers are dependent upon wireline switching and transport facilities to deliver many of their calls, without a robust wireline network, wireless services would not exist at their present level of reliability. Therefore, the continuance of a supported wireline COLR is critical not only for the differentiated end-user services that wireline carriers offer, but also for the benefit of wireless services in rural areas and nationwide.

The use of reverse auctions to determine the COLR for a rural service area is particularly problematic when a reserve price is established, as the Reverse Auctions NPRM proposes.³⁹ A reserve price is simply a way of artificially capping the High-Cost program without regard to the actual support carriers will need to meet the COLR obligations and other requirements established by regulators. The Reverse Auctions NPRM asserts that competitive bidding is a “market-based approach” to determining universal service support,⁴⁰ but with a reserve price in place it is anything but market based. A reserve price empowers the regulator, rather than the auction participants, to determine the level of support that will be available, regardless of whether or not that support amount is sufficient to fulfill the established universal service obligations and provide for “reasonably comparable” services and rates.

³⁸ *Id.*, ¶9. The Joint Board’s Recommended Decision also implicitly acknowledges that wireline and wireless services are complementary and that rural consumers should have access to both since it recommends the establishment of separate support mechanisms for each (POLR and Mobility).

³⁹ Reverse Auctions NPRM, 23 FCC Rcd 1509-1510, ¶¶36-40.

⁴⁰ *Id.*, 23 FCC Rcd 1496, ¶3.

The Reverse Auctions NPRM suggests an initial reserve price based on current support levels.⁴¹ At the same time, however, it also tentatively concludes that an additional obligation of support recipients should be the ubiquitous provision of broadband Internet access services at 1.5 mbps.⁴² OPASTCO is supportive of adding broadband to the list of services supported by the High-Cost program. However, with this new universal service obligation must come sufficient funding to support it. It is unrealistic to expect that a reserve price based on current support levels will enable carriers to deploy broadband Internet services to the high-cost rural consumers that presently lack broadband availability. Obviously, if current support levels were sufficient to enable the provision of broadband to those unserved consumers, it would have already occurred.

If, despite the numerous pitfalls and risks, the Commission is resolved to utilize an auction mechanism, it should only be used to determine support amounts for the provision of mobile wireless services and/or broadband Internet services in areas where those services presently do not exist. A 2006 white paper on reverse auctions by economist Dale Lehman⁴³ states that the use of competitive bidding for determining the COLR for a service area, where there are already multiple existing infrastructures utilizing different technologies, is theoretically and empirically untested. Moreover, this set of conditions poses numerous difficult implementation problems that would need to be overcome. As a result, the use of reverse auctions for this purpose may place the provision of universal service by a viable COLR in serious jeopardy.

⁴¹ *Id.*, 23 FCC Rcd 1509, ¶37.

⁴² *Id.*, 23 FCC Rcd 1508, ¶35.

⁴³ Dale E. Lehman, *The Use of Reverse Auctions for Provision of Universal Service*, Attachment to National Telecommunications Cooperative Association Comments, WC Docket No. 05-337 (fil. Oct. 10, 2006).

However, Lehman suggests that there is evidence that competitive bidding may be successful in a “green-field” setting where infrastructure is not in place. Thus, if the Commission is committed to utilizing reverse auctions in some fashion, their best chance of success would be in separate mobility and broadband support mechanisms where a primary purpose is to disseminate these services in areas where they are presently unavailable. Of course, clear, specific requirements for network build-out, service deployment, and service quality would need to be established in order to provide greater assurance that the funds received by wireless ETCs and broadband providers will be used to achieve policymakers’ objectives in these areas.

In any event, under no circumstance should reverse auctions be applied to rural ILECs for the purpose of determining the COLR and its support amount in rural service areas. The existing support system for rural ILECs, based on embedded network costs, has been highly successful in achieving Congress’s and the Joint Board’s universal service goals. In particular, it has enabled these carriers to ubiquitously provide modern, high-quality wireline voice services at affordable rates as well as make significant strides in the deployment of broadband in their respective service areas. It makes no sense to replace a support system for rural ILECs, which is accomplishing precisely what it is intended to do, with a reverse auction mechanism that threatens to erase the urban/rural comparability that has generally been achieved in these areas.

VI. THE COMMISSION SHOULD ESTABLISH SEPARATE SUPPORT MECHANISMS FOR MOBILITY AND BROADBAND THAT ENCOURAGE SERVICE DEPLOYMENT IN UNSERVED AREAS

Consistent with the Joint Board’s Recommended Decision, the Commission should establish support mechanisms for mobility and broadband that are separate and

distinct from the existing support mechanisms designed for rural ILECs that serve as COLRs.⁴⁴ Mobile wireless services and broadband Internet services are not ubiquitous like wireline voice services, and would benefit from separate funding mechanisms that, among other things, encourage service deployment in areas where those services are presently unavailable. As the Recommended Decision states, establishing a separate broadband mechanism would “...accommodate[] the arrival of, and the public demand for, broadband Internet services,” while a separate mobility mechanism would “...substantially increase the effectiveness of funding now awarded to wireless carriers.”⁴⁵

Furthermore, establishing separate mechanisms for mobility and broadband would make it easier for the Commission to allow the existing support mechanisms utilized by rural ILECs to continue to operate essentially as they do today for these carriers. In so doing, these mechanisms would be able to continue to successfully achieve their intended purposes. This includes supporting rural ILECs’ investments in broadband-capable plant, as the existing mechanisms have done an outstanding job encouraging the deployment of broadband Internet services in rural service areas.

⁴⁴ Recommended Decision, 22 FCC Rcd 20480-20481, ¶11. Separate support mechanisms for mobility and broadband should be characterized either as “mechanisms” or “programs” within the existing Universal Service Fund (USF), rather than as “funds” as they are in the Recommended Decision. This would send the proper signal that the new mechanisms or programs are to be funded by all USF contributors and that all existing mechanisms and programs will continue to be as well.

⁴⁵ *Id.*, 22 FCC Rcd 20478, ¶1.

VII. THE COMMISSION SHOULD REMOVE THE CAP ON HCLS AND REFRAIN FROM CAPPING THE OTHER RURAL RoR ILEC SUPPORT MECHANISMS SO THAT CONSUMERS IN RURAL SERVICE AREAS CAN OBTAIN ACCESS TO FUTURE GENERATIONS OF ADVANCED SERVICES

In his separate statement to the Joint Board's Recommended Decision, Chairman Martin states that "...our universal service program must continue to promote investment in rural America's infrastructure and ensure access to communications services that are comparable to those available in urban areas, as well as provide a platform for delivery of advanced services."⁴⁶ OPASTCO agrees wholeheartedly. However, in order to ensure that the basic and advanced services and rates offered in rural service areas are comparable to those available in metropolitan areas going forward, the support mechanisms utilized by rural RoR ILECs should not be capped in any manner.

To begin with, the indexed cap on the HCLS mechanism⁴⁷ should be lifted. The cap on HCLS is an arbitrary impediment to the sufficiency of cost-based support intended to ensure affordable and "reasonably comparable" services and rates for rural consumers. The cap also creates unpredictability for rural ILECs, as an increase in support for any carrier lessens the support available for other carriers. Eliminating the cap on HCLS would provide rural ILECs with greater ability and incentives to invest in their networks. This would better enable further deployment of broadband Internet services to the highest-cost consumers as well as the maintenance and upgrading of existing broadband-capable facilities.

In addition, under no circumstance should caps be applied to the other major support mechanisms that rural RoR ILECs rely upon for cost recovery and operating

⁴⁶ *Id.*, Statement of Chairman Kevin J. Martin, 22 FCC Rcd 20496.

⁴⁷ 47 C.F.R. §§36.601(c), 36.603-604, 36.621(a)(4)(ii).

revenues.⁴⁸ Capping these mechanisms would not only jeopardize the continued construction and upgrading of broadband-capable plant, but could also threaten the quality of voice-grade services as well as place upward pressure on end-user charges. Indeed, Commissioners Deborah Tate and Ray Baum, the Federal and State Chairs of the Joint Board, respectively, have each expressed concern over any further capping of the rural ILEC portion of the High-Cost program.⁴⁹

As mentioned previously, the Joint Board's Recommended Decision correctly points out that the existing support system for rural ILECs has been effective in maintaining an essential network for COLRs and in deploying broadband.⁵⁰ With respect to the deployment of broadband, the Joint Board highlights the fact that the HCLS mechanism may be utilized to support the costs "...of providing broadband-capable loop facilities..."⁵¹ Likewise, on more than one occasion, the Commission has acknowledged that the existing rural High-Cost program "...supports the deployment of facilities that can be used to provide broadband in rural communities."⁵²

⁴⁸ Those mechanisms include local switching support (LSS) and interstate common line support (ICLS).

⁴⁹ Recommended Decision, Statement of Commissioner Deborah Taylor Tate, 22 FCC Rcd 20498 ("I question whether it is prudent to penalize these carriers since they are not responsible for the growth in the high-cost fund... In many cases, these carriers are already providing broadband to rural Americans."). *Id.*, Statement of Commissioner Ray Baum, 22 FCC Rcd 20502 ("...I have practical concerns about capping the ILEC portion of the fund. First, capping the separate funds within the ILEC portion as recommended in the RD seems unnecessary. Second, I anticipate the ILEC portion of the fund will be subject to some adjustment during the next five years as a consequence of intercarrier compensation reform.").

⁵⁰ *Id.*, 20 FCC Rcd 20485, ¶30.

⁵¹ *Id.*

⁵² *Availability of Advanced Telecommunications Capability in the United States*, GN Docket No. 05-54, Fourth Report to Congress, 19 FCC Rcd 20540, 20571 (2004). *See also*, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers*, CC Docket No. 00-256, 16 FCC Rcd 11244, 11322, ¶200 (2001) ("The public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services...Rural carriers may consider both their present and future needs in determining what plant to deploy, knowing that prudent investment will be eligible for support.").

A significant benefit of the existing support system for rural ILECs is that in addition to supporting a carrier's initial investment in broadband-capable facilities, it also funds critical maintenance and upgrades of infrastructure where broadband availability already exists. Continual investment is crucial, because the broadband connections that are available to consumers today will soon be viewed as antiquated and insufficient. As the digital content on the Internet continues to grow, the products, services, and applications that ride over the broadband network are becoming more and more bandwidth intensive, and are requiring ever-higher data speeds to accommodate them. In order for rural consumers to be able to access everything the Internet has to offer, rural ILECs need to invest in more robust and intelligent networks that are capable of handling greater amounts of data. This is an ongoing process.

For rural service areas, the benefits of a robust broadband-capable network are pronounced. Broadband provides rural consumers with new educational opportunities through distance learning, specialized health care through telemedicine, as well as the ability to telecommute to otherwise far-away jobs. It enables citizens to stay informed and can provide essential services in emergency situations. Furthermore, a high-quality broadband network can enable existing businesses in a rural area to grow as well as attract new businesses to the area, both of which will energize the local economy.

While there is no doubt that rural ILECs have made considerable progress disseminating broadband Internet services, the Commission should not view their achievements as "mission accomplished" with respect to broadband in these service areas. Section 254(b)(5) of the 1996 Act states that support mechanisms should not only be sufficient to preserve universal service, but to *advance* it as well. Thus, adequate

high-cost support needs to be made available so that rural carriers have the ability and incentive to invest in the broadband networks of tomorrow. Applying caps to rural RoR carriers' support mechanisms going forward would only serve to impede their ability to make available the next generation of advanced services that will be deemed essential by businesses and households, and critical to the prosperity of rural service areas.

Capping any of the support mechanisms utilized by rural RoR ILECs also makes it more difficult for these carriers to secure the financing necessary to make broadband-capable network investments. In the past, rural ILECs have relied heavily on the cash flow from the provision of voice-grade services to demonstrate to lending institutions that they will be capable of repaying the debt associated with their broadband investments. This is because broadband penetration has not been high enough in some rural service areas thus far to ensure that the cash flows produced just from these services will be sufficient to cover the repayment of the loans. However, as the cash flow rural ILECs receive from traditional voice-grade services continues to erode due to a variety of factors, lenders may soon begin to limit the availability of credit for further broadband investments. By lifting the cap on HCLS and refraining from capping the other support mechanisms, it will provide rural ILECs with an improved ability to recover the costs of their broadband-related investments. This, in turn, will help to allay concerns that lenders may have about rural carriers' repayment capacity and allow them to continue to make financing available for rural broadband networks.

OPASTCO certainly recognizes the need to ensure that the High-Cost program remains sustainable and that any growth in the program is necessary to further universal service goals. However, controlling Fund growth through arbitrary caps on rural ILECs'

cost-based support is entirely at odds with the statutory principles that support be predictable and sufficient and that rural areas have access to “reasonably comparable” services and rates. Instead, as Commissioner Copps states, the sustainability and integrity of the USF could be ensured if, *inter alia*, the identical support rule were eliminated and broadband providers were required to contribute to the Fund.⁵³

Requiring all facilities-based broadband Internet access providers to contribute to the USF would go far towards securing the Fund’s long-term viability while also allowing for accountable, prudent growth in the High-Cost program. The Wireline Competition Bureau’s most recent statistics on high-speed services for Internet access illustrate that subscribership to high-speed connections continues to grow at a fast pace.⁵⁴ Therefore, assessing all facilities-based broadband Internet access providers would establish a much larger contribution base than exists today and one that would continue to experience rapid growth for some time to come. This, in turn, would allow the cost of universal service to be spread over more and more end-user bills. Furthermore, if broadband Internet access service is formally made a supported service, as the Joint Board recommends⁵⁵ and the Commission appears to suggest as well,⁵⁶ then the case for requiring these providers to contribute to the USF becomes even stronger. In short, establishing contribution obligations for facilities-based broadband Internet access

⁵³ Recommended Decision, Statement of Commissioner Michael J. Copps, 22 FCC Rcd 20499-20500. OPASTCO also agrees with Commissioner Copps that Congressional authorization to permit the assessment of universal service contributions on intrastate as well as interstate revenue, would be a valuable tool for supporting broadband.

⁵⁴ As of June 30, 2007, there were 100.9 million high-speed lines in service connecting homes and businesses to the Internet. This is a 55 percent or 35.7 million line increase from one year prior. *High-Speed Services for Internet Access: Status as of June 30, 2007*, Industry Analysis and Technology Division, Wireline Competition Bureau (Mar. 2008), p. 1.

⁵⁵ Recommended Decision, 22 FCC Rcd 20491, ¶56.

⁵⁶ The Reverse Auctions NPRM tentatively concludes that an additional obligation of support recipients should be the provision of broadband Internet access services throughout the entire geographic area. Reverse Auctions NPRM, 23 FCC Rcd 1508, ¶35.

providers, along with elimination of the identical support rule, should sufficiently address any perceived need to cap any portion of the High-Cost program for rural RoR carriers.

VIII. CONCLUSION

The Commission should retain the existing support system for rural ILECs, based on their embedded network costs. For years now, this system has accountably enabled rural ILECs to serve their areas as reliable COLRs for affordable, modern telecommunications services, and has also encouraged the deployment of broadband Internet services. It would be unwise for the Commission to abandon this successful program for rural ILECs and their customers in favor of reverse auctions, which would jeopardize everything that the embedded cost-based system has achieved.

Where reform is greatly needed, however, is the basis of support for competitive ETCs. The identical support rule is the cause of all of the excessive and unjustified growth in the High-Cost program, and has generally failed to provide the proper incentives to encourage competitive ETCs to invest in their networks to serve high-cost areas. Therefore, at least in rural service areas, the Commission should require competitive ETCs to demonstrate their own costs in order to potentially qualify for support, just as rural ILECs are required to do. The Commission should also establish separate support mechanisms for mobility and broadband that, among other things, encourage service deployment in areas where mobile wireless services and broadband Internet services do not exist.

Finally, the Commission should remove the cap on HCLS and refrain from imposing caps on the other support mechanisms that rural RoR ILECs rely upon. Sufficient support needs to be made available for rural carriers to be able to deploy future

generations of broadband services that will be demanded by consumers and critical to the prosperity of rural America.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
SMALL TELECOMMUNICATIONS COMPANIES**

By: /s/ Stuart Polikoff

Stuart Polikoff

Director of Government Relations

21 Dupont Circle NW

Suite 700

Washington, DC 20036

(202) 659-5990

April 17, 2008

CERTIFICATE OF SERVICE

I, Brian J. Ford, hereby certify that a copy of the comments of the Organization of the Promotion and Advancement of Small Telecommunications Companies was sent via electronic mail on this, the 17th day of April, 2008, to those listed on the attached list.

By: /s/ Brian J. Ford
Brian J. Ford

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Antoinette Stevens
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
445 12th Street SW, Room 5-B540
Washington, DC 20554
E-mail: Antoinette.Stevens@fcc.gov

Best Copy and Printing, Inc.
445 12th Street SW, Room CY-B402
Washington, DC 20554
E-mail: fcc@bcpiweb.com