Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 07-267
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	

Comments of Frontier Communications

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Summary of Comments of Frontier Communications

- The Commission should address the runaway growth in CETC funding requirements, but need not and should not reduce ILEC funding, which has been flat or declining.

- The Commission should eliminate the identical support rule.

- The Commission should limit the number of ETCs in a study area to a maximum of one wireless CETC, one wireline CETC and the ILEC.

- CETCs obtaining high-cost funding should be required to accept public interest requirements including a reasonably priced flat rate local service option, a specific commitment to provide broadband service, state quality-of-service regulation and equal access long distance dialing.

- Wireless carriers, which have never received access revenues, should not receive support designed as a replacement of access revenues such as ICLS, IAS and local switching support.

- The Commission should not establish an overall funding cap, or otherwise reduce or cap Carrier of Last Resort high-cost funding. Such actions would fail to maintain a "predictable and sufficient" mechanism as required by statute.

- The Commission should not use reverse auctions for ILEC support mechanisms. They would cause support to become unpredictable and probably insufficient in violation of statute.

- The Commission should establish a separate Carrier of Last Resort high-cost fund and eliminate the parent trap rule.

- The Commission should establish a separate mobility fund for unserved areas.

- The Commission should establish a separate broadband fund, based on a broadband definition of a download speed of 3 Mbps, for unserved areas.

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Comments of Frontier Communications

I. Introduction and Summary

Frontier Communications ("Frontier")[1] hereby submits its comments in response to the *Joint Board Comprehensive USF Reform NPRM*[2]*,* the *Identical Support Rule NPRM*[3] and the *Reverse Auctions NPRM*[4], pursuant to the Commission's March 6, 2008 Public Notice.[5]

In summary, Frontier submits that the Commission must control the runaway growth in Universal Service funding requirements caused by the current rules applicable to Competitive Eligible Telecommunications Carriers ("CETCs"). However, the Commission should not throw

[1] Frontier is a mid-size carrier with incumbent local exchange carrier (ILEC) operations in 24 states under the common ownership of Citizens Communications Company. As an ILEC, Frontier operates in one of the most competitive (both residential and business) urban markets in the country (Rochester, NY), but the balance of its ILEC operations are located in several small, high cost rural markets throughout the United States.

[2] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-22 (rel. Jan. 29, 2008) (*Joint Board Comprehensive USF Reform NPRM*)

[3] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-4 (rel. Jan. 29, 2008) (*Identical Support Rule NPRM*)

[4] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, FCC 08-5 (rel. Jan. 29, 2008) (*Reverse Auctions NPRM*)

[5] Comment Cycles Established for Commission's Notices of Proposed Rulemaking Regarding the Identical Support Rule, the Use of Reverse Auctions to Set High-Cost Universal Service Support, and the Federal-State Joint Board on Universal Service's Recommendations for Comprehensive Reform of High-Cost Universal Service Support), DA 08-499 (rel. March 4, 2008).

the baby out with the bathwater by further caps on or reductions to the ILEC Universal Service support mechanisms that have been instrumental in getting and keeping rural America connected to the network. Instead, the Commission should use some of the funding freed up from CETCs to enhance the availability of broadband Internet access in rural, high-cost areas.

II. Today's Runaway Growth in Universal Service Funding Requirements Is Caused By Current CETC Rules, Not By ILEC Support Requirements.

From 2001 through at least 2006, ILEC Universal Service funding has remained flat or declining. In stark contrast, CETC Universal Service funding has increased by $1 billion from 2001 through 2006, and CETC support could more than double by 2009 if all current petitions are granted.[6] CETC support now amounts to at least 25% of total funding requirements and this percentage is quickly rising. It is obvious where the root cause of the current problem lies.

Current rules allow multiple CETCs in any given area to draw high-cost support whether or not they need it, at the same level at which the local ILEC draws support. There is no public policy reason for this situation to continue, and no need to burden the Nation's consumers with these runaway costs.

In a separate track of this proceeding, the Commission is considering an immediate cap on CETC support.[7] Frontier continues to support such a cap, as stated in Frontier's June 6, 2007 comments. Frontier urges the Commission to review the comments in that track of this proceeding for all the reasons why CETC funding is out of control and must be curtailed.

In this track of the proceeding, the specific proposals under consideration for amelioration of the Universal Service funding crisis are the elimination of the "identical support"

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[6] Recommended Decision, *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45, FCC 07J-1 (May 1, 2007) ("Recommended Decision"), ¶4.

[7] Notice of Proposed Rulemaking, FCC 07-88 (May 14, 2007).

rule, which would require CETCs to provide a basis for high-cost support using their own rather than the ILECs' costs, and a limitation of the number of CETCs that may simultaneously draw support in a single study area. Frontier strongly supports both proposals. However, the Commission should not stop with these measures in its reform of CETC funding. In addition, to qualify as a Carrier of Last Resort ("COLR") and to draw high-cost support, a CETC should be required to accept a limited number of public interest requirements. Finally, wireless CETCs should not, in any Universal Service reform, be given funding based on the replacement of access charge revenues, in light of the fact that they have never had any such revenues to be replaced.

A. The Commission Should Eliminate the Identical Support Rule.

Simple economics have proven that the identical support rule was misguided. There is no public policy basis to saddle consumers with CETC "high costs" that probably do not exist, creating funding requirements at a multi-billion dollar level unforeseen when the identical support rule was adopted. What is called "identical support" is not really support when it is based on another carrier's costs. Instead, this "support" is a mere subsidy, and there is no basis to tell whether consumers are getting any Universal Service benefits whatsoever from the massive subsidy they are paying to CETCs.

Frontier has no position on the specific mechanism for the determination of CETC costs. However, Frontier strongly supports the use of ILEC costs as a cap as suggested in the *Identical Support Rule NPRM*,[8] to limit the distribution of funds to inefficient CETCs. Such a cap automatically exists under the identical support rule, and there is no good reason to eliminate this cap when CETCs move to their own costs.

[8] *Identical Support Rule NPRM*, ¶25.

B. The Commission Should Limit the Number of CETCs in a Study Area.

There is no public policy basis to require consumers to support an unlimited number of COLRs in any given study area. Frontier hereby incorporates by reference its May 31, 2007 comments to the Joint Board in this proceeding, in which Frontier recommended a maximum of three high-cost fund recipients in a given area: one wireless CETC, one wireline CETC, and of course the ILEC if the ILEC qualifies for funding. Frontier submits that three COLRs are enough, if not more than enough, to provide consumers in high-cost areas with an assurance of service.

Given the potential number of CETCs, especially wireless CETCs that may serve any given area, it may be impractical to establish an application process and a "beauty contest" review by the Commission of mutually exclusive applications. As a result, the Commission may wish to consider a reverse auction process, not for COLR status, but solely for determining which wireless CETC or which wireline CETC should draw high-cost support at a level not to exceed either the CETC's or the ILEC's costs. However, Frontier urges the Commission to take any such step with extreme caution, because it is far from clear how any kind of reverse auction can comply with the statutory requirement of a "predictable and sufficient" mechanism.[9]

C. The Commission Should Impose Public Interest Requirements on CETCs.

In order to qualify as a CETC and to draw high-cost support, a carrier should be required to agree to COLR status. Such status should carry with it a number of public interest requirements that consumers have come to expect as part of Universal Service, above and beyond the provision of Lifeline service and the willingness to provide voice service to all customers in the study area. In particular, the Commission should require:

[9] 47 U.S.C. §254(b)(5).

1. a reasonably priced flat rate local service option;
2. a commitment to offer broadband service[10] to 30% of its customers within its COLR territory within 1 year, 50% within 3 years and 75% within 5 years;
3. acceptance of state quality-of-service regulation to the same extent that such regulation applies to the ILEC; and
4. equal access long distance dialing as long as this obligation applies to the ILEC.

D. Wireless CETCs Should Not Receive Access Charge Replacement Support.

The Commission should ensure as part of any Universal Service reform that wireless CETCs will not receive any support that is designed as an access charge replacement. Wireless CETCs do not collect access charges and, although they currently receive this funding, should not be entitled to replacement of what they never received. Accordingly, wireless carriers should be excluded from any support related to access charges, such as ICLS, IAS and local switching support.

III. The Commission Should Not Further Cap or Reduce ILEC High Cost Support or Establish an Overall Funding Cap.

Universal Service funding for ILECs is working exactly as intended, and as noted above, ILEC funding requirements have been stable or declining. There is no reason or need for further caps or reductions of ILEC high cost support. The current USF process already imposes

[10] For this purpose Frontier recommends a definition of “broadband” to mean an Internet access service with a download speed of 1 Mbps or more. As will be noted below, Frontier recommends a more robust definition of broadband if a carrier wishes to obtain explicit broadband funding.

caps on corporate expenses,[11] the safety valve,[12] and the high-cost loop fund,[13] and NECA, USAC and state commissions can and do audit ILEC USF recipients. In reforming Universal Service funding, the Commission should focus on the root causes of the problem of spiraling growth of the funding requirement, and not attempt to cure a nonexistent illness. In making adjustments to the mechanisms that have connected rural America and that continue to keep it connected, the Commission should keep in mind a key rule of the medical profession, "First, do no harm."

The Commission should not place an overall cap on Universal Service funding for the same reasons. An overall cap would mean that as non-ILEC support grows, as it almost certainly will, ILEC funding would be forced to shrink. Competitive services, including wireless, are dependent on the wireline network of ILECs for services such as call completion and E911, and such a mechanism would effectively require ILECs to provide support to their competitors out of their own pockets in a zero-sum game, a manifestly unfair and unreasonable result. A competitively neutral funding mechanism is not one in which one competitor is effectively required to finance other competitors. A further result of an overall cap is that through its operation, COLR support could readily become either insufficient or unpredictable or both, in clear violation of the statute.[14]

IV. The Commission Should Not Use Reverse Auctions for ILEC High Cost Support.

Reverse auctions have previously been proposed and commented upon in this proceeding. Frontier remains highly concerned that the imposition of reverse auctions into the

[11] *See* 47 CFR § 36.621.

[12] *See* 47 CFR § 54.305.

[13] *See* 47 CFR 36.604.

[14] 47 U.S.C. §254(b)(5).

ILEC high cost funding process would devastate the very companies that Universal Service funding was designed to support. The loss of ILEC support, which could readily happen where low bidding wireless carriers do not actually require support, would leave the ILECs' customers with a bitter choice between double or triple digit rate increases for wireline service on one hand, and spotty and expensive cellular coverage with extremely limited broadband capability on the other hand. Such a result would be the antithesis of Universal Service support. For low-income consumers in high cost areas, the resulting price increases could amount to the destruction of Universal Service by driving them off the network.

Frontier incorporates by reference its comments filed October 10, 2006 in this proceeding. As previously noted, the application of reverse auctions to the ILEC support mechanism would guarantee that support would no longer be predictable, in complete violation of 47 U.S.C. §254(b)(5). By definition, the results of periodic auctions are not predictable. It is also probable that in some areas reverse auctions would result in support no longer being sufficient, because the ILECs losing support would no longer be able to maintain rates or services comparable to those in urban areas, a further violation of both §254(b)(3) and §254(b)(5). A wireless carrier winning such an auction cannot be counted on to supply voice or broadband services comparable in either quality or price to the wireline services available in urban areas. Especially for data services, wireless services are less robust, slower and considerably more expensive than their urban wireline counterparts.

The Commission's ultimate goal in this proceeding should be to advance and maintain Universal Service, not to minimize the size of the fund by damaging Universal Service. Accordingly, the Commission should rule out reverse auctions as a mechanism for limiting ILEC high cost support.

V. The Commission Should Establish Separate POLR, Wireless and Broadband Funds.

Frontier supports the Joint Board's proposal for separate POLR, Mobility and Broadband funds.

A. The Commission Should Establish A POLR Fund To Refocus Universal Service Funding On Its Original Goal, and Should Eliminate the Parent Trap.

The original, and still the primary, function of Universal Service support is to provide consumers with affordable communications services in all parts of the United States. The rural ILECs long ago entered into a social compact with regulators that they would invest enormous sums of money into rural networks, continue to modernize these networks over time, and charge relatively low rates for service, in exchange for reasonable, predictable and sufficient support where needed. The ILECs continue to fulfill their half of the bargain, and have brought broadband Internet access to much of rural America already. Their task is far from complete. Rural networks require continuous reinvestment to maintain existing grades of service, and a great deal more investment is required to provide the increasingly high broadband speeds that consumers are beginning to expect. A separate, well-crafted POLR fund will help rural ILECs in their ongoing efforts to keep rural America from lagging behind the rest of the country.

As part of a reasonable and sufficient POLR fund, the Commission should eliminate the parent trap, which denies high-cost support to companies and customers who need it solely because of the identity of the prior owner of the assets. There is no public interest basis to turn the consumers in the affected areas into second-class citizens. The result of the parent trap chills the ability of larger carriers, who are focused on their urban areas, to sell rural lines to rural carriers whose entire business is to provide high-quality and low-cost service to rural consumers. Under the parent trap rule, the consumers in affected areas have a legitimate concern that they will be left behind, either through lack of attention from their current carrier or through lack of support for any potential new carrier. This rule must therefore be eliminated.

B. The Commission Should Establish A Separate Mobility Fund.

Wireless service is fundamentally different from wireline service, although the two are partial substitutes for each other and are therefore partially competitive. Wireless service's primary advantage is mobility, but it necessarily suffers from the disadvantages of limited spectrum and less than ubiquitous coverage. Wireless service will never have the bandwidth that can be delivered over fiber optic lines. The cost characteristics of a wireless network are very different from those of a wireline network, and wireless prices at least for the foreseeable future are and will remain significantly higher than wireline prices.[15]

Despite their higher prices, wireless carriers cannot be expected to locate cell towers in areas that are sparsely populated and traveled to the point that they will be unable to recover their investment in the absence of a support mechanism. Rural consumers should have a choice of wireline or wireless service or both, and they should be permitted to decide for themselves how to weigh the various factors of quality and speed of service, mobility and price. It therefore makes policy sense to provide support for wireless service to unserved areas. Any such support mechanism must necessarily be based on the costs and needs of the carrier in question, not those of the ILEC.

Any such fund, however, should not take funding away from the COLR support mechanism. As discussed above, an overall cap would create a zero-sum game forcing some

[15] For example, in many areas of the nation Frontier offers unlimited nationwide local and long distance voice calling for $39.99 per month plus taxes and surcharges, while consumers pay $99.99 plus taxes and surcharges for such a plan from most wireless carriers. Similarly, Frontier offers broadband Internet access in many areas for $30 or less, while many wireless carriers charge $60 or more for a much slower speed of service.

carriers effectively to contribute to others, and putting in jeopardy the predictability and sufficiency of COLR funding.

C. The Commission Should Establish A Separate Broadband Fund.

The existing high-cost support mechanism has indirectly benefited broadband service, although not to a very large extent. Backbone network upgrades, which increase a high-cost company's cost per access line, provide benefits to both POTS and broadband services. However, many of the costs required to provide broadband services, including backhaul to and access from an Internet Service Provider network, splitters, DSLAM equipment and CPE, are currently unsupported.

Frontier believes that Universal Service is incomplete without explicit support for broadband services. Increasingly consumers need and expect Internet access to buy goods and services at reasonable prices, search out employment opportunities, complete school homework assignments, share pictures with friends and relatives, keep current on severe weather events and breaking news, and generally remain connected with the world at large. Dial-up Internet access, with a maximum speed of less than 56Kbps, has become a painful experience, because most web sites are designed for high-speed downloads of many images. Rural communities without broadband service will not attract or keep large employers, and their children will leave to pursue better opportunities and a more connected lifestyle.

The Commission should therefore move toward a program to provide ubiquitous broadband access throughout the United States, just as it was once, and still is, a goal to provide ubiquitous telephone service. Frontier agrees with the Joint Board that support should be targeted to locations without broadband access. For this purpose, the Commission should adopt a much more robust definition of broadband than its current standard of 200 Kbps.

Consumers' expectations of broadband speeds are changing as technology changes and as new services are offered that take advantage of improved speeds. Any definition will need re-examination in the future, but a reasonable current starting point is a download speed of 3 Mbps.[16] This bandwidth is currently enough for reasonably fast downloads, high-quality streaming audio and almost all of the services available over the Internet, but not enough for standard or high-definition television or for high-quality videoconferencing.

Frontier does not have a specific recommendation for the funding amount or distribution mechanism for this fund, but again notes that this funding, like mobility funding, should not take away from COLR funding through the operation of an overall cap. Frontier believes that there will be sufficient funding available for both the mobility and the broadband fund by redirecting support from CETCs that currently draw support at the ILEC level, and from wireless carriers currently drawing support that was intended for access replacement funding, over the course of a reasonable transition period.

VI. Conclusions.

Universal Service reform is certainly necessary. However, the Commission should not attempt to fix what isn't broken, and should maintain ILEC funding at no less than its current level. The Commission should take specific steps to address the out-of-control funding requirements caused by CETCs, including the elimination of the identical support rule, a limitation of the number of CETCs in one study area and the denial of access revenue replacement mechanisms to cellular carriers that have never received access revenues. In

[16] This standard would be applied to the engineered design of the broadband service, and would not be viewed as a guaranteed speed for each consumer. For example, with Digital Subscriber Line (DSL) broadband services, Individual consumer speeds vary greatly based on distance from the DSLAM, bridge taps on the subscriber line, inside wiring configuration and quality, and the consumer's computer equipment.

addition, the Commission should require CETCs to step up to a number of reasonable public interest commitments as a condition of high-cost funding.

The Commission should neither establish an overall funding cap nor use reverse auctions for ILEC support mechanisms, because either one would make ILEC funding either unpredictable or insufficient or both, in violation of §254(b)(5).

The Commission should establish three funds – one for Carriers of Last Resort without the current "parent trap," one for wireless service to unserved areas, and one for broadband service to unserved areas with a download speed of at least 3 Mbps. Frontier believes that the amounts saved by reforming CETC funding will be sufficient to fund the mobility and broadband funds.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Gregg C. Sayre, do certify that on April 17, 2008, the aforementioned ***Comments of Frontier Communications*** were electronically filed with the Federal Communications Commission through its Electronic Comment Filing System and were electronically mailed to the following:

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