

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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 QWEST
COMMUNICATIONS INTERNATIONAL INC.**

Qwest Communications International Inc. (“Qwest”) files these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) three *Notices of Proposed Rulemaking* (“NPRM”) seeking comment on (1) the recommendation of the Federal-State Joint Board on Universal Service (“Joint Board”) regarding comprehensive reform of high-cost universal service support,¹ (2) the Commission’s rules governing high-cost universal support provided to competitive eligible telecommunications carriers (“CETCs”), including the Commission’s proposed elimination of the “identical support rule”,² and (3) whether and how to implement reverse auctions (a form of competitive bidding) as the disbursement mechanism for determining the amount of high-cost universal service support for ETCs serving rural, insular, and high-cost areas.³

¹ *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) (“*Joint Board Comprehensive High Cost Recommended Decision Notice*”); 73 Fed. Reg. 11587, Mar. 4, 2008. Order extending comment cycle, DA 08-674, rel. Mar. 24, 2008.

² *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (“*Identical Support Rule Notice*”); 73 Fed. Reg. 11580, Mar. 4, 2008.

³ *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (“*Reverse Auctions Notice*”); 73 Fed. Reg. 11591, Mar. 4, 2008.

As Qwest has consistently advocated, comprehensive reform of the universal service high-cost support program is needed. Any reform of existing high-cost support mechanisms for voice services needs to improve the effectiveness of that support by better targeting the support to areas where costs to deploy and maintain telecommunications services are significantly above those costs for deploying and maintaining comparable services in more urban areas.

Additionally, it is appropriate to consider using universal service high-cost support to encourage deployment of broadband services in unserved areas, as long as implementation of any high-cost support for broadband does not repeat the mistakes of the existing high-cost program. As a nation and an industry we should strive to make broadband universally available, and federal funding should support that effort to some degree. But, recognizing the many problems that have been identified with respect to the existing high-cost support mechanisms, Qwest agrees that federal support to enable universal broadband service should be designed and structured differently than the existing support mechanisms. Qwest supports much of the reform proposed by the Joint Board, and supports elimination of the identical support rule. Reverse auctions could be an effective tool for distributing federal universal service high-cost support to unserved areas, but would not be an appropriate distribution mechanism for existing service areas.

I. QWEST SUPPORTS MUCH OF THE REFORM PROPOSED BY THE JOINT BOARD

Qwest agrees with many aspects of the Joint Board's *Recommended Decision* ("*Recommended Decision*") regarding federal universal service high-cost support distribution reform.⁴ In its *Recommended Decision*, the Joint Board has proposed the creation of three funds to provide high-cost support: (1) a broadband fund, primarily to support deployment of

⁴ *In the Matter of High-Cost Universal Service Support, Federal-State Joint Board on Universal Service*, Recommended Decision, 22 FCC Rcd 20477 (2007) ("*Recommended Decision*").

broadband to unserved areas, (2) a mobility fund, primarily to support deployment of wireless voice services to unserved areas, and (3) a POLR (“provider of last resort”) fund to support basic voice services.⁵ The Joint Board recommends an overall funding cap on the three funds of \$4.5 billion per year, an amount approximately equal to the high-cost support provided in 2007.⁶ For both the broadband and mobility funds, the Joint Board proposes that the primary purpose of that support would be to construct facilities to enable deployment of the respective service to areas that do not yet have those services. For both funds a secondary purpose would be to provide continuing operational subsidies for the services in areas that are otherwise uneconomic to serve. For both funds, the Joint Board recommends that the FCC should allocate funds to the states, and the states would allocate funds to providers in accord with FCC guidelines for an acceptable competitive bidding process.

Qwest agrees that universal service principles and support should extend to broadband to some degree. In fact, Qwest has proposed a new federal universal service program subsidizing broadband deployment, the funds for which would come from instituting a new restriction -- above and beyond the implementation of the recommended emergency cap of funding CETCs -- that would limit universal service support for wireless CETCs to a single handset per household.⁷

⁵ *Id.* at 20480-81 ¶ 11.

⁶ But this cap would not apply to any incremental support that the FCC determines is required in order to comply with the Tenth Circuit’s remand in *Qwest II*. *Id.* at 20487 ¶ 42.

⁷ See Qwest July 9, 2007 *ex parte* Letter from Ms. Melissa E. Newman, Qwest, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45, and its Attachment, Qwest Proposal for Broadband Deployment to Unserved Areas (“Qwest White Paper”).

Qwest agrees that the definition of “broadband” is outdated and needs to be revisited. In Qwest’s broadband proposal, Qwest has initially defined “broadband” as at least one megabit per second downstream and 256 kilobits per second upstream.⁸

Qwest agrees with the Joint Board that the primary purpose of any broadband deployment subsidization should be to aid construction of facilities in *unserved* areas.⁹ But, high-cost support should not provide on-going operational subsidies. Nor should the support subsidize competition or build duplicate networks. For the unserved areas, only a single provider of broadband, regardless of the technology used, should receive federal universal service high-cost support.

Qwest agrees that the Commission’s proposed means of determining areas served and not served by broadband are sufficient as an initial mapping tool.¹⁰ The task of mapping broadband service areas may be best executed by the states, but state and federal efforts should be complementary and not duplicative.

Additionally, Qwest agrees that the states should have the role of selecting recipients and distributing support based on federal guidelines for executing those functions. Qwest supports the states receiving “block grants” from the FCC based on the percentage of unserved households in each state.¹¹ The state would then distribute those funds through an appropriate competitive bidding mechanism, such as a request for proposal process or a reverse auction, to the lowest qualified bidder.¹²

⁸ *Id.* at 13.

⁹ *Recommended Decision*, 22 FCC Rcd at 20481-82 ¶¶ 12-15. *See* Qwest White Paper at 10-16.

¹⁰ *Recommended Decision*, 22 FCC Rcd at 20481 ¶ 13.

¹¹ *Id.* at 20481 ¶ 14. *See* Qwest White Paper at 21-26.

¹² *See* Qwest White Paper at 21-26.

Qwest also supports a wireless pilot program, recognizing that there are some areas with no wireless voice providers.¹³ Any high-cost support for wireless voice services should be funded through reallocation of existing high-cost support for wireless carriers, and not through any additional increase in high-cost support. One approach would be to limit high-cost support for wireless ETCs to one handset per household, and recover the excess support to fund deployment of wireless voice services to unserved areas. Another approach could be to use the funds that may be recovered from elimination of the identical support rule.

As a legal matter, the most pressing high-cost reform needed is reform of the existing non-rural high cost support mechanism as required by the Tenth Circuit's remand in *Qwest II*.¹⁴ In its *Recommended Decision*, the Joint Board acknowledges the outstanding remand and that any increase in federal high-cost support that could result from addressing the remand is not included in the Joint Board's recommended general cap or POLR cap.¹⁵ Qwest is increasingly concerned that the shifting focus on how to provide universal broadband and mobile wireless services, while important, is causing the Commission to unnecessarily and inappropriately delay addressing the Tenth Circuit remand of *Qwest II*. After a dozen years and two court reversals, the Commission still lacks lawful rules ensuring that rural rates for non-rural carriers are "reasonably comparable" to urban rates, as required by the 1996 Act. And, while the Tenth Circuit did not set a deadline for Commission action when it invalidated and remanded the Commission's universal service high-cost rules for non-rural carriers for the second time, it "fully expect[ed] the FCC to comply with [its] decision in an expeditious manner, bearing in

¹³ See *Recommended Decision*, 22 FCC Rcd at 20482 ¶ 16. See Qwest White Paper at 26-27.

¹⁴ *Qwest Communications International Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) ("*Qwest II*").

¹⁵ *Recommended Decision*, 22 FCC Rcd at 20487 ¶ 42.

mind the consequences inherent in further delay.”¹⁶ That was three years ago. The Commission needs to move forward to implement lawful high-cost support rules for non-rural carriers.

II. QWEST SUPPORTS ELIMINATION OF THE IDENTICAL SUPPORT RULE

The Joint Board has proposed, and the Commission has tentatively agreed, that the Commission should eliminate the “identical support” rule which provides CETCs with the same per-line high-cost universal service support amounts that incumbent local exchange carriers (“ILECs”) receive.¹⁷ Qwest agrees that this support should be eliminated. First, to the extent a CETC’s costs to provide wireless service are less than the ILEC’s costs to provide wireline service, the identical support rule provides an inefficient incentive to the CETC to provide service in the ILEC’s service area.¹⁸ This inefficient incentive is even more pronounced in rural ILEC service areas. Because rural carriers receive universal service support based on their embedded costs, when a rural carrier’s cost per-line increases -- such as when it loses lines to CETCs -- its high-cost support per-line increases as well. And, pursuant to the Commission’s identical support rule, this higher per-line support is available to CETCs in the rural ILEC’s service area. But, as the Commission has recognized, because the CETC receives this high-cost support irrespective of its own costs to provide service, there is little, if any, incentive for the CETC to invest in or expand its facilities to areas with lower population densities.¹⁹ It makes little sense for the Commission to continue to require that high-cost support be used in this inefficient manner.

¹⁶ *Qwest II*, 398 F.3d at 1239.

¹⁷ *Recommended Decision*, 22 FCC Rcd at 20478 ¶ 5.

¹⁸ And, given the significant increase in wireless carriers designated as ETCs, it seems likely that their costs are less than those of the ILECs’ in the areas in which the wireless carriers have sought ETC designation.

¹⁹ *Identical Support Rule Notice*, 23 FCC Rcd at 1471-72 ¶ 10.

Instead, the FCC should require that high-cost support be provided to CETCs based on their own costs of providing the supported services. The cost basis for CETCs should be the costs for the same defined set of supported services that underlie the cost basis for ETCs.

Qwest also agrees with the Commission's tentative conclusion that CETCs should stop receiving Interstate Access Support ("IAS") and Interstate Common Line Support ("ICLS"). Qwest agrees that the purposes underlying IAS and ICLS support to ILECs are not served in providing this support to CETCs.²⁰

III. REVERSE AUCTIONS COULD BE EFFECTIVE FOR DISTRIBUTING HIGH-COST SUPPORT TO UNSERVED AREAS

Reverse auctions may be appropriate for distributing high-cost universal service support in certain limited situations. Competitive bidding could be used to drive efficient provision of service to unserved areas. In fact, Qwest's broadband proposal suggests a competitive bidding process as one means states might use to distribute "block grants" received from the FCC to providers who bid to serve an unserved area.²¹ The winning bidder would receive the funds in return for a commitment to serve the particular area -- using any technology available -- for ten years at reasonably comparable rates to the statewide average price. The block grants would be used to aid in construction of facilities, and would not provide on-going operational subsidies.

If reverse auctions were implemented for distributing high-cost support to unserved areas, there should only be a single winner that would receive the universal service support. While competition is a key goal of the 1996 Telecommunications Act, it is not a guiding principle of

²⁰ As the Commission noted, IAS and ICLS were created by the Commission in order to maintain a cap on the subscriber line charge ("SLC") that ILECs may charge to their end users, while simultaneously eliminating the implicit support that was contained in common line access charges that were imposed by ILECs on interexchange carriers that was preserving the lower SLCs. *Identical Support Rule Notice*, 23 FCC Rcd at 1477 ¶ 23.

²¹ Qwest White Paper at 21-26.

universal service. Universal service is not intended to and should not be used to promote competition. A competitive reverse auction process should bring marketplace discipline to the process of providing explicit universal service support to high-cost areas. But, the inefficiencies of providing explicit high-cost support to multiple providers in a previously unserved high-cost area would eclipse any consumer welfare gain introduced by multiple supported providers.

And, reverse auctions should not be used to distribute high-cost support where there is an existing provider. Such a proposed use raises significant concerns surrounding the existing network in the event the existing provider is not the successful bidder in the auction. The potentially harmful impacts of a reverse auction on existing investment, future investment, and service quality, should discourage adopting this approach to distribution of federal high-cost support in existing service areas.²²

Respectfully submitted,

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²² See *id.* at 22-23.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be: 1) filed with the FCC via its Electronic Comment Filing System in WC Docket No. 05-337 and CC Docket No. 96-45; 2) served via e-mail on Ms. Antoinette Stevens, Telecommunications Access Policy Division, Wireline Competition Bureau at Antoinette.Stevens@fcc.gov; and 3) served via e-mail on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/ Richard Grozier
Richard Grozier

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