

**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 COMCAST CORPORATION

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Comcast Corporation (Comcast) hereby submits these comments in response to the Federal Communications Commission’s (Commission) three Notices of Proposed Rulemaking released in the above-captioned proceedings.¹ Comcast currently provides voice service to over four million residential consumers, but has not requested any payments from the current federal high-cost fund. As both a competing provider of voice service as well as a contributor to the high-cost fund, Comcast has a keen interest in these proceedings.

I. INTRODUCTION AND SUMMARY

The current federal universal service high-cost fund is not sustainable. Both immediate measures to restrain the fund’s growth as well as comprehensive reform to reduce the size of the fund over time are required to provide the fund with a sound financial foundation. Moreover, even if the current level of funding could be sustained, it is far from clear that the cost burden imposed on consumers can be justified as fully

¹ *High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (*Identical Support NPRM*); *High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (*Reverse Auctions NPRM*); *High-Cost Universal Service Support; Federal State Joint Board on Universal Service*, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) (*Joint Board NPRM*) (collectively *Notices* or *NPRMs*).

necessary to achieve the objectives of the fund established by Congress. The three Notices acknowledge this crisis and the need to repair the current flawed system. As discussed below, however, many of the proposals advanced by the Notices would not produce a sustainable, pro-competitive plan for reform that increases consumer benefits. Indeed, in some instances, they would exacerbate existing problems. The proposal, for example, to require competitive providers of voice service to develop accounting records modeled after the Commission's existing Part 32 rules² would impose substantial, unnecessary administrative complexity and costs on both the Commission as well as providers and would not encourage providers to offer service as efficiently as possible.

As a threshold matter, the Commission should limit the provision of high cost support to those areas where the marketplace demonstrably will not ensure that residential consumers have access to reasonably priced voice services. The Commission has recognized repeatedly that marketplace forces are far superior to regulatory intervention in meeting the needs of consumers. Where high cost support is required, the Commission should ensure that it is provided in a manner that is competitively and technologically neutral so as to minimize interference with efficient marketplace forces. The Commission's plan, for example, should not insulate one segment of the industry from competitive pressures to the detriment of consumer choice.

II. STEPS MUST BE TAKEN TO REDUCE THE SIZE OF THE FUND

The current system of providing high-cost support is fundamentally flawed. Effective and meaningful reform that promotes competitive markets and technological advances for consumers cannot be accomplished by tinkering at the margins of the

² See 47 C.F.R. § 32.101, *et seq.*

existing program. To the contrary, the current system must be completely overhauled. The growth in the size of the high-cost program has reached crisis proportions that undermine the program's sustainability³ and impose an enormous burden on the ratepaying public. The Commission must take both immediate and long-term steps to return the federal high-cost program to a sustainable course.

As an initial matter, the Commission can and should halt the ongoing growth in the size of the federal high cost fund while it develops a plan for comprehensive reform. The most immediate way to accomplish this goal is to cap all payments from the fund at 2007 levels. Recent press reports indicate that the Commission shortly will adopt an order that freezes the total support payments to competitive eligible telecommunications carriers (CETCs), consistent with the Joint Board's recommendation last year.⁴ That action, however, will not prevent continued growth in payments to the fund's largest recipients. Comcast urges the Commission to halt ongoing increases in high-cost fund support by capping the fund's size, not just CETC support, at 2007 levels pending adoption and implementation of comprehensive reforms.⁵

On a longer term basis, the Commission must implement a new regime for high-cost support that is sustainable. To that end, the reform plan must be competitively and technologically neutral, encourage both incumbent providers as well as new entrants to

³ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45, Recommended Decision, FCC 07J-1, 22 FCC Rcd 8998, ¶ 4 (2007) ("without immediate action to restrain growth in competitive ETC funding, the federal universal service fund is in dire jeopardy of becoming unsustainable.").

⁴ *Id.* ¶ 5.

⁵ The cap could be implemented by calculating all support under existing formulae and then multiplying each funding component by the ratio of the cap to the total funding requests.

compete to serve higher cost areas, thereby helping to bring the benefits of competition to customers in these areas, and also help place downward pressure on the size of the fund in order to minimize the burden on the ratepaying public.

III. SPECIFIC PROPOSALS CONTAINED IN THE 2008 NOTICES OF PROPOSED RULEMAKING

A. Elimination of the Identical Support Rule

The existing approach to distributing federal high-cost support provides a CETC with the same amount of per-line support to serve a customer that the incumbent LEC receives to serve the same customer (“identical support rule”).⁶ The *Identical Support NPRM* proposes to eliminate the identical support rule for CETCs and further tentatively concludes that a CETC should receive high-cost support based on its own costs.⁷ It also tentatively concludes that CETCs should be required to file cost data demonstrating their costs of providing service in high-cost service areas.⁸

Comcast opposes the proposal to require CETCs to develop and maintain cost accounting records that appear to be patterned after the FCC’s existing Part 32 rules. Because it is highly unlikely that competitive voice providers currently maintain their books of account in the manner suggested by the NPRM, implementation of the proposed approach would doubtless be both costly as well as administratively complex for the Commission and the industry. The Commission adopted an analogous regime in the early 1990s in an effort to regulate the prices for cable television service.⁹ That approach

⁶ 47 C.F.R. § 54.307(a).

⁷ *Identical Support NPRM* ¶ 5.

⁸ *Id.* ¶ 12.

⁹ *See Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation and Adoption of a Uniform Accounting*

proved extremely costly for cable operators to implement and embroiled the Commission in an endless series of rate regulation disputes.¹⁰

Moreover, the alternative to the identical support rule suggested by the NPRM would not necessarily lead to a reduction in the size of the fund from current levels. Specifically, the NPRM appears to suggest that support for CETCs should be based on a cost-of-service regulatory regime. The Commission has recognized repeatedly that cost-of-service regulation can create perverse incentives for carriers to increase their costs of providing service (and to ignore measures that would reduce their costs) because there is no penalty for inefficiency. Indeed, to the extent that earnings are based on a firm's return on its investment base, cost-of-service regulation inherently encourages providers to increase their regulated investment even if the added investment would produce no efficiency gain in the provision of service.¹¹ The *Identical Support NPRM* does not mention this fundamental problem, let alone present an analysis that substantiates the

System for Provision of Regulated Cable Service, Report and Order and Further Notice of Proposed Rulemaking, 9 FCC Rcd 4527 (1994).

¹⁰ See, e.g., *InterMedia Partners; Cost of Service Showing and FCC Form 1210 to Support Cable Programming Service Rate*, Order, 11 FCC Rcd 12607 (CSB 1996); *TCI Cablevision of Nebraska, Inc.; Complaints Regarding Cable Programming Services Tier Rate Increase*, Order, 12 FCC Rcd 6670 (CSB 1997); *Suburban Cable TV, Inc.; Complaint Regarding Cable Programming Services Tier Rates and Petitions for Reconsideration*, Order on Reconsideration and Rate Order, 12 FCC Rcd 23862 (CSB 1997); *Media General Cable of Fairfax County*, Memorandum Opinion and Order, 12 FCC Rcd 17424 (CSB 1997); *Multi-Channel TV Cable Company d/b/a Adelphia Cable Communications; Complaint Regarding Cable Programming Services Tier Rate Increase*, Order, 12 FCC Rcd 908 (CSB 1997).

¹¹ See *Policy and Rules Concerning Rates for Dominant Carriers*, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873, ¶¶ 30 (1989).

theory that the proposed alternative to the identical support rule in fact would result in lower overall support for CETCs.¹²

In sum, the cost-of-service alternative proposed by the *Identical Support NPRM* is fundamentally flawed. The Commission should explore other approaches to determining high-cost support for CETCs that will encourage the efficient provision of service in areas where such support is needed. In the meantime, capping the overall size of the fund at 2007 levels will prevent additional growth in support for both CETCs as well as incumbent LECs.

B. Reverse Auctions

The *Reverse Auctions NPRM* states that the increase in the number of ETCs receiving high-cost support is placing increasing pressure on the stability of the universal service fund.¹³ It notes that an auction could provide an efficient mechanism for reducing the subsidization of multiple ETCs in a given area.¹⁴ The *Reverse Auctions NPRM* also explains that reverse auctions could “allow direct market signals to be used as a supplement to, and possible replacement of, cost estimates made from either historical cost accounting data or forward-looking cost models.”¹⁵ The *Reverse Auctions NPRM* tentatively concludes that the Commission should develop an auction mechanism to determine high-cost universal support.¹⁶

¹² Even a CETC that recovers only a small part of its costs from the fund would have no incentive to reduce its costs of serving high-cost areas. Moreover, CETCs would have an incentive to misallocate costs to the high-cost category to take advantage of the cost-plus regulation.

¹³ *Reverse Auctions NPRM* ¶ 10.

¹⁴ *Id.* ¶ 11.

¹⁵ *Id.*

¹⁶ *Id.*

Comcast commends the Commission on its willingness to consider the use of reverse auctions in awarding high-cost universal support. Comcast has expressed its support for “the use of a *properly designed* reverse auction to determine eligibility for receiving high-cost universal service support. A *properly designed* reverse auction would reward the more efficient providers and, thus, replicate the dynamics of a competitive marketplace.”¹⁷ Reverse auctions, in principle, could reduce the size of the high-cost fund significantly from current levels. Comcast has emphasized, however, that the Commission should ensure that the rules governing such reverse auctions are technologically and competitively neutral.¹⁸

Developing and implementing a reverse auction mechanism in an industry characterized by high levels of fixed, and oftentimes sunk, investment raises a variety of difficult and complicated issues that the *Reverse Auctions NPRM* neither identifies nor addresses. For example, even if an initial auction attracted multiple bidders, how could the Commission ensure that multiple bidders also would participate when the next auction was held for that area? A failure to resolve this problem in prescribing the initial auction rules could have the effect of ensuring that the winning bidder in the first auction will face no rivals when the Commission seeks to conduct auctions for the same area in the future.

The Commission’s experience in devising and implementing rules for spectrum auctions will not translate easily into a plan for reverse auctions for high-cost support. At a very basic level, the spectrum auctions are one-time events whereas it is expected that

¹⁷ Comments of Comcast Corporation, WC Docket No. 05-337, at 5 (May 31, 2007) (emphasis supplied).

¹⁸ *Id.*

reverse auctions for high-cost support would be conducted repeatedly over specified intervals. Spectrum auctions do not establish a single provider in each geographic market, but rather are designed to “help reduce any entry barriers that may arise from government regulation of spectrum.”¹⁹ The winner of a spectrum auction must compete against other wireless providers serving the same market, frequently using other spectrum won in the same auction or a previous auction. By contrast, a reverse auction, by its very nature, will help to create or solidify a single firm’s dominant position in an individual geographic market to the extent that the amount the winner receives from the fund is truly necessary to enable it to provide service at reasonable rates in high cost areas. Of course, if the funding is not needed to cover costs and a reasonable return on capital, it should not be provided.

One lesson, however, that the Commission learned from its wireless auction experience does apply to reverse auctions for high-cost support: flawed rules can effectively determine auction winners and losers.²⁰ The tentative conclusions set forth in the *Reverse Auctions NPRM* indicate that the plan ultimately adopted by the Commission would be neither competitively nor technologically neutral. For example, the *Reverse Auctions Notice* tentatively concludes that “the wireline incumbent LEC’s study area is

¹⁹ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 07-71, Twelfth Report, 23 FCC Rcd 2241, ¶ 74 (2008).

²⁰ The FCC acknowledged that its auction rules could affect potential outcomes when it developed the band plan and auction rules for the 700 MHz auction. *See, e.g., Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd 15289, ¶¶ 71, 81 (2007) (finding that smaller geographic license areas would be advantageous for small and rural bidders while larger geographic license areas would be beneficial to bidders seeking to provide nationwide service).

the appropriate geographic area on which to base reverse auctions.²¹ Yet, the *Reverse Auctions Notice* quixotically acknowledges that “[b]asing the geographic area on any particular carrier’s service area would likely give that carrier an advantage in bidding because the competing carriers are unlikely to have the same service footprint.”²² A large geographic area such as an incumbent LEC study area would simplify the auction process itself, but it would do so at the unacceptable cost of tilting the playing field strongly in favor of the incumbent LEC. If a wireless carrier’s licensed service area did not match the incumbent’s study area, the wireless licensee would be unable to provide service using its wireless system throughout the geographic area covered by the auction without investing additional capital to extend wireless service to new areas – and spectrum may not be available in those areas.

The alternative of using smaller geographic areas not aligned with any particular carrier’s network would seem to provide a more competitively neutral approach. California has proposed to use geographic areas of Census Block Groups (CBGs) for an auction to award advanced services support.²³ The use of small geographic areas such as CBGs would not only provide the advantage of competitive neutrality, but it would also permit high-cost support to be targeted more precisely to areas that truly involve higher costs to serve.

²¹ *Reverse Auctions NPRM* ¶ 21.

²² *Id.* ¶ 19.

²³ *Order Instituting Rulemaking into the Review of the California High Cost Fund B Program*, Rulemaking 06-06-028, Interim Opinion Adopting Reforms to the High Cost Fund-B Mechanism, Decision 07-09-020, at 102-103, 108-109, 113-119 (CPUC, Sept. 13, 2007), available at: <http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/72734.PDF>.

To be sure, the use of smaller geographic areas for a reverse auction would entail its own challenges. CBGs are so small that they would likely be smaller than the service area of any competitor. A bidding process would have to take into account that a carrier would have an incentive to bid different amounts on a CBG depending on whether the carrier won the bid for other CBGs in the same geographic area, because the economics of serving a particular CBG would vary based on the overall scope of the territory a bidder would serve. In addition, the need for combinatorial bidding when using CBGs would introduce further complexity into the auction process.²⁴

In short, although the analysis of the use of reverse auctions to determine high-cost support is a promising initial step in the development of an effective plan, the Commission should use the record compiled in response to the NPRM to develop a much more specific, detailed proposal for implementing this approach and solicit comments on that proposal.

C. Joint Board Proposal

The Joint Board recommends the establishment of three separate high-cost funds: a Broadband Fund, a Mobility Fund and a Provider of Last Resort Fund, each of which would have distinct budgets and purposes. The Joint Board also proposes that the Commission establish a cap on the total amount of high-cost funding at \$4.5 billion (which is approximately equal to the 2007 level of high-cost funding).²⁵ This budget would allocate \$300 million to the Broadband Fund and \$1 billion to the Mobility Fund.

²⁴ See *Auction of 1.4 GHz Bands Licenses Scheduled for February 7, 2007; Comment Sought on Competitive Bidding Procedures for Auction No. 69*, Public Notice, 21 FCC Rcd 9494, DA 06-1016 at 4 & n.19 (WTB 2006); see also *Reverse Auctions NPRM* ¶ 44.

²⁵ *Joint Board NPRM* ¶ 26.

The remainder of approximately \$3.2 billion, the vast majority of the fund, would be allocated to the Provider of Last Resort Fund.

Perhaps, the most fundamental flaw in the Joint Board's reform proposal is that it would not produce any meaningful reductions in the size of the Fund. At best, it would saddle contributors to the fund and their customers with the continued burden of the present excessive contribution levels. In addition, the Joint Board's proposal would undermine the core principle of competitive and technological neutrality without offering a reasoned explanation for such a drastic departure from the Commission's commitment to that principle. In addition, the proposed size of the Broadband Fund is untethered to any empirical data and, in keeping with the other components of the Joint Board's proposal, is neither competitively nor technologically neutral. Finally, the Joint Board's proposal would squander the opportunity for meaningful cost control by failing to use the market pressure of competition to reduce the size of the Provider of Last Resort Fund.

1. *Inadequate Cost Control*

The Joint Board recommends capping the high-cost fund at a level that approximates the 2007 level of high cost funding.²⁶ In Comcast's view, the Joint Board's proposals for long-term reform to control the growth in the high-cost fund are not sufficiently aggressive or comprehensive. As part of the short-term plan, Comcast supports placing an immediate cap on the size of the fund, not just CETC support, at 2007 levels. When the Commission begins to implement a long-term plan, the cap should be readjusted to a level that is *less than* the amount that was disbursed in 2007. Moreover, the Joint Board's proposal lacks any mechanism for putting downward

²⁶ *Id.*

pressure on the fund, particularly the massive Provider of Last Resort Fund, over time. A reasonable approach to comprehensive reform must include a measure to reduce the size of the fund over time, including the size of the Provider of Last Resort fund. In the long term, the most effective way to attain meaningful reductions in the size of the fund is to promote competition by more efficient technologies that will provide reasonable voice service at a lower cost.

2. *The Tri-Fund Proposal Is Not Competitively and Technologically Neutral.*

When implementing Section 254, the Commission concluded that the principle of competitive and technological neutrality was embodied in the federal statute²⁷ and that it was “necessary and appropriate for the protection of the public interest.”²⁸ The Joint Board’s proposal to establish three separate funds for high-cost support, if adopted, would abandon that fundamental principle of competitive neutrality in derogation of the public interest.

The federal high-cost universal service program was designed to ensure that voice service of reasonable quality would be available throughout all areas of the nation. Further, universal service was defined so as to permit the eventual replacement of wireline networks by wireless networks as dictated by economic considerations.²⁹ In

²⁷ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶¶ 48-49 (1997) (*1997 USF Report and Order*).

²⁸ *Id.* ¶ 51.

²⁹ *See id.* ¶ 48 (“Our decisions here are intended to minimize departures from competitive neutrality, so as to facilitate a market-based process whereby each user comes to be served by the most efficient technology and carrier.”); *see also id.* ¶ 49 (“By following the principle of technological neutrality, we will avoid limiting providers of universal service to modes of delivering that service that are obsolete or not cost effective. . . . [U]niversal service support should not be biased toward any particular technologies.”).

practice, the new proposed structure would earmark \$3.2 billion for a particular group – rural incumbent LECs – and effectively would cordon off these incumbents from the competitive pressures of other technologies for purposes of qualifying for high-cost support. This approach would not be competitively or technologically neutral and the Joint Board does not offer any explanation for this departure from the Commission’s well-settled policy of interpreting the statute to require competitive and technological neutrality in distributing universal service support.

3. *Broadband Fund*

The Joint Board proposes the establishment of a Broadband Fund designed primarily to support the construction of broadband networks in high-cost unserved and under-served areas.³⁰ The Joint Board acknowledges that the Commission lacks sufficiently detailed information to administer broadband construction grants.³¹ In the absence of any credible information on the specific need for broadband construction funds, the \$300 million annual federal funding level for the Broadband Fund appears to have been plucked from thin air.³²

When it initially implemented Section 254, the Commission similarly confronted the need to estimate the size of the fund for providing universal support to health care providers. The Commission lacked an existing program to help it estimate the size of the

³⁰ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337 and CC Docket No. 96-45, Recommended Decision, FCC 07J-4, 22 FCC Rcd. 20477, ¶ 12 (2007) (attached as Appendix A to *Joint Board NPRM*) (“*Joint Board Nov. 2007 Recommended Decision*”). The Broadband Fund, as proposed, would provide operating expenses where a plausible economic case could not be made to operate broadband facilities, even after receiving the construction subsidy. *Id.*

³¹ *Id.* ¶ 13.

³² *Id.* ¶ 29.

fund and the process of estimating costs was rendered more difficult by rapid technological developments and difficulties in predicting demand. Nevertheless, the Commission engaged in a reasoned analysis by using a variety of available data inputs, including information provided by state agencies, such as the number of health care providers in rural areas, the likely service speeds the providers would request, and the charges for Internet access services in these areas at the time.³³

The Joint Board's proposal for the Broadband Fund contains no similar analysis. Principles of reasoned decision-making compel the Commission to provide an empirical basis beyond an unsubstantiated estimate for committing \$300 million to subsidize the construction of broadband networks. As the Joint Board has observed, the "[e]ffective use of federal funds for broadband will require a detailed knowledge of the areas in which effective terrestrial broadband service is unavailable."³⁴

The Commission should refrain from allocating funds to a Broadband Fund until it obtains detailed information that would help it to quantify the level of need.³⁵ The Joint Board has identified a potential source for this information. It proposes that "[b]efore awarding grants for construction, states should be required to develop and publish detailed maps of their unserved areas."³⁶ After these data have been compiled, the Commission should seek additional comment on the initial size of the Broadband Fund.

³³ *1997 USF Report and Order* ¶¶ 705-708.

³⁴ *Joint Board Nov. 2007 Recommended Decision* ¶ 13.

³⁵ The Joint Board states that "the Commission has engaged in some broadband mapping activities, but not at the scale necessary to administer broadband construction grants." *Id.*

³⁶ *Id.* ¶ 15.

Once the Commission appropriately estimates the initial size of the Broadband Fund, it should also modify the Joint Board's Broadband Fund proposal to align it with the principles of competitive and technological neutrality that are supposed to guide the Commission's universal service policies. In its current incarnation, the Broadband Fund would not be competitively and technologically neutral. Under the Joint Board proposal, cable operators offering VoIP services apparently would be required to contribute to the high-cost fund, but their cable modem broadband networks and services would be ineligible to receive support. In other words, providers of cable modem services would be forced to fund their broadband competitors while being barred from competing for the support themselves.

The Commission has advocated a policy of eliminating regulatory advantages to one broadband technology over another.³⁷ It also has long-recognized the importance of technological neutrality for universal service:

³⁷ See, e.g., *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Wireless Networks*, Declaratory Ruling, 22 FCC Rcd 5901, ¶ 2 (2007); see also *Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling; Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, Declaratory Ruling and Notice of Proposed Rulemaking, 17 FCC Rcd 4798, ¶ 6 (2002); *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; Computer III Further Remand Proceedings; Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided via Fiber to the Premises; Consumer Protection in the Broadband Era*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, ¶ 1 (2005); *United Power Line Council's Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet*

We anticipate that a policy of technological neutrality will foster the development of competition and benefit certain providers, including wireless, cable, and small businesses, that may have been excluded from participation in universal service mechanisms if we had interpreted universal service eligibility criteria so as to favor particular technologies. We also agree with the Joint Board's recommendation that the principle of competitive neutrality, including the concept of technological neutrality, should be considered in formulating universal service policies relating to each and every recipient and contributor to the universal service support mechanisms, regardless of size, status, or geographic location.³⁸

It is imperative that the Commission remain true to these fundamental principles. In doing so, it should design the Broadband Fund to be technologically and competitively neutral so that it does not "skew the marketplace or inhibit competition by limiting the available quantity of services or restricting the entry of potential service providers."³⁹

4. *Provider of Last Resort Fund*

Since the high-cost fund was established by statute, the Commission has been guided by the tenet that ultimately the way to limit or lower the size of the fund would be to increase facilities-based competition.⁴⁰ The Joint Board's proposal, by isolating incumbent LECs from competitive pressures from wireless and other CETCs, would move federal universal service policy in the wrong direction. Indeed, the change in terminology from "Universal Service Provider" to "Provider of Last Resort" suggests an

Access Service as an Information Service, Memorandum Opinion and Order, 21 FCC Rcd 13281, ¶ 2 (2006).

³⁸ *1997 USF Report and Order* ¶ 49.

³⁹ *Id.* ¶ 48.

⁴⁰ *Id.* ¶ 55 ("[W]e anticipate that competition and market-based universal service techniques may eventually limit the size of the support mechanisms by providing affordable, cost-effective telecommunications services in many regions of the nation that are now dependent upon universal service support.").

intention to abandon the use of competition as a tool to drive down the size of subsidies. The designation of one, and only one, provider per geographic area as the Provider of Last Resort (initially, at least, the incumbent LEC) would reinstate the discredited linkage between the public interest of consumers with the private financial interest of the incumbent carrier. Similarly, the proposal to maintain the size of the fund at a specified level, even if competitors attract customers away from incumbents, would not foster a vigorously competitive marketplace.

In light of the widespread agreement that the sustainability of the fund is in jeopardy, it is imperative that the Commission utilize every tool available to it to control and ultimately reduce the size of the fund. For example, to ensure that competition remains a fundamental component of any effort to reduce the size of the high-cost fund, the Commission should require that, in order to be eligible to receive high-cost funds, an incumbent LEC must have agreed to enter into an interconnection agreement with any requesting telecommunications carrier. This would ensure that competitive entry, which eventually could exert downward pressure on the size of the fund, could occur in areas where competition is inclined to develop.

IV. CONCLUSION

For the foregoing reasons, the Commission should take immediate steps to freeze any increase in the size of the federal high-cost fund, and should take further action consistent with the recommendations contained herein to reduce the size of the fund in a manner that is competitively and technologically neutral.

Respectfully submitted,

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Dated: April 17, 2008

Certificate of Service

I hereby certify that on this 17th day of April, 2008, I caused true and correct copies of the foregoing Comments of Comcast Corporation to be mailed by electronic mail to:

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