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

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	

To: The Commission

COMMENTS OF PANHANDLE TELECOMMUNICATION SYSTEMS, INC.

Panhandle Telecommunication Systems, Inc. ("Panhandle"),[1] by its attorneys, hereby submits comments in response to the Federal Communications Commission's ("FCC" or "Commission") three Notices of Proposed Rulemaking (collectively, "Notices") regarding the high-cost universal service support program.[2] Specifically,

[1] Panhandle Telecommunication Systems, Inc. ("Panhandle") is a wholly-owned subsidiary of Panhandle Telephone Cooperative, Inc. ("PTCI"). PTCI is a rural incumbent local exchange carrier ("ILEC") with approximately 15,400 access lines and receives high cost universal service support for its operations in Oklahoma, Texas, and New Mexico. Panhandle is a provider of commercial mobile radio service ("CMRS") in Oklahoma and Kansas, and competitive local exchange carrier ("CLEC") service in Texas. Panhandle provides mobile service to less than 10,000 customers and has been designated an eligible telecommunications carrier ("ETC"), receiving high cost support. As a CLEC, Panhandle provides service to less than 4,000 access lines. Panhandle also provides high-speed Internet services to over 7,000 customers and dial-up service to approximately 800 customers. The multiple businesses operated by Panhandle and its affiliates in high cost regions give it a unique and thoroughly rural perspective on universal service. Without adequate high cost support, many customers served by Panhandle could be without vital telecommunications services.

[2] *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) ("*Identical Support Rule NPRM*"); *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495

Panhandle opposes the use of reverse auctions to determine high-cost universal service support for ETCs pursuant to Section 254(e) of the Communications Act of 1934, *as amended* (the "Act"); supports the elimination of the identical support rule; and finds little to like in the Federal-State Joint Board on Universal Service's ("Joint Board") suggestions for reform of the Universal Service Fund ("USF" or "Fund"). Instead, Panhandle urges the FCC to take a fresh approach to the USF conundrum and work to efficiently target putting the funding toward its intended purpose. Along those lines Panhandle has developed a plan that will lower the fund over time while still supporting high quality service in rural areas.

I. Introduction

One of the main objectives of both the FCC and Congress has been to control the rapid growth of the USF. Controlling a ballooning fund can be accomplished in many ways and the FCC has been inundated with numerous proposals ranging from reverse auctions to funding caps. However, reining in the high cost fund must be accomplished without abandoning long-held universal service principles developed by Congress in the Telecommunications Act of 1996 (Act) and the FCC and the Joint Board in their implementation of the Act.

Panhandle's proposal reflects its long history of providing crucial communications services in high cost areas. Panhandle requests that the Commission adopts its "Panhandle Proposal" which was submitted as an ex parte on January 11, 2008.

(2008) ("*Reverse Auctions NPRM*"); *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) ("*Joint Board Comprehensive Reform NPRM*").

Panhandle believes that the concepts set forth below will lead to a more targeted and efficiently managed high cost fund.

The Panhandle Proposal is intended as an alternative to drastic and untested "reverse" auctions and irresponsible requests that the high cost fund be eliminated in its entirety. The Panhandle Proposal eliminates the identical support and bases high cost support on a carrier's own costs, as well as establishing individual company caps. The elimination of the identical support rule reflects industry consensus concerning the unnecessary "windfall" that such support can provide in certain instances. The Panhandle Proposal allows for multiple wireless carriers in the same region to receive support on a targeted basis. However, Panhandle's Proposal contains an economic incentive for wireless carriers to use another carrier's network in areas where additional networks are economically infeasible. What follows are principles and specifics concerning the Panhandle Proposal.

II. Wireless CETCs should receive USF provided they make their networks available to all who wish to access them at a reasonable and fair rate.

The 1996 Act establishes the principle that consumers in all regions of the nation, including rural and high cost areas, should have access to telecommunications and information services at rates comparable to those enjoyed by consumers in urban areas.[3] Nowhere in the Act does Congress indicate that universal service applies only to certain types of telecommunications carriers and excludes others. Panhandle believes that the receipt of high cost universal service comes with an obligation, both ethical and fiscal, to use high cost support for the express provision of high cost universal service. Therefore,

[3] *See* 47 U.S.C. § 254(b)(3).

wireless carriers who directly or indirectly benefit from high cost support used to build out wireless networks in rural regions where multiple networks are cost prohibitive should be required to provide roaming on a non-discriminatory basis to other wireless carriers in their area and their customers. With the receipt of high cost support for wireless build out comes the obligation to share the high cost network with *all* customers who need access to the network.

A. ***Wireless CETCs receiving support should be required to make their network available on a wholesale basis at the cost per minute or data unit of the national average cost to produce the minute or data unit thereby allowing all carriers and consumers to benefit from USF.***

Under the Panhandle Proposal, wireless competitive eligible telecommunications carriers ("CETCs") receiving high cost support would be required to make their network available to the other wireless carriers licensed to serve in the same ETC markets at a reduced rate. This would permit wireless carriers licensed to serve the same area to indirectly benefit from federal high cost support and better serve their customers residing in that market. The reduced roaming rate would be based on the national average cost to produce a wireless minute or wireless data unit, and is referred to as the local wholesale rate. The local wholesale rate would be based on wireless carrier costs. The local wholesale rate would also be used to determine high cost support for wireless ETCs, as discussed below.

B. *Wireless carriers should be required to calculate a national average cost per minute or data unit through an annual reporting requirement.*

To determine wireless carrier costs for the receipt of high cost support, Panhandle suggest a formula be developed to allow wireless carriers to calculate their own costs based on a national average cost without resorting to the highly-regulated and burdensome cost accounting methods currently required of ILECs. Specifically, on an annual basis, all wireless carriers would report to the FCC, or alternatively the National Exchange Carrier Association ("NECA") or the Universal Service Administrative Company ("USAC"), the cost of maintaining their respective networks, and the costs associated with completing a call or delivering data. Included in these costs would be the costs of towers, antennas, switches, buildings, backhaul, spectrum, clearinghouses, the net cost of call termination, and network maintenance. Also included would be an approved rate of return on the investment. Excluded from these costs would be administrative costs, marketing expenses, and customer handset subsidies as these costs can vary widely and be used to "game" the mechanism. Carriers would also report on an annual basis the total number of minutes or data units generated by their networks. Many of these costs are available from CTIA's annual survey which provides capital expenses, average minutes, data usage and revenue per customer. Wireless carriers and regulators would thus be able to compare a wireless carrier's individual costs with a national average cost.

C. *A formula with multipliers should be used for determining the national average cost per minute or data unit.*

The total cost of all wireless networks would be divided by the number of minutes or data on all networks in order to come up with a national average cost per minute or data unit. An individual carrier would calculate its own cost per minute by dividing its costs by number of minutes or in the case of data by the data unit. Roaming usage would count on both national and individual calculations of minutes and data usage.

In order to determine an individual carrier's support, a multiplier, based on the company's size, would be applied to the national average cost per minute or data unit. This multiplier could be adjusted to control the size of the fund and to reflect any unforeseen wireless cost trends. The following multipliers are intended for discussion purposes only:

i. 1.50 for Tier I carriers
ii. 1.35 for Tier II carriers
iii. 1.15 for Tier III carriers

Applying this multiplier to the average national cost per minute or data unit would yield a figure used to determine the local wholesale rate discussed above. The local wholesale rate would also be used to determine the rate at which carriers would begin receiving high cost support. For example, if the national average cost per minute is 2 cents, after applying the 1.15 multiplier for Tier III carriers, the local wholesale rate would be 2.3 cents per minute. This would be the wholesale rate the Tier III carrier would be obliged to charge for the provision of roaming to the customers of licensed wireless carriers in its ETC area.

D. *The level of high cost support should be based on the size (or tier) of the wireless carrier.*

To determine high cost support using the local wholesale rate, the individual carrier simply compares its cost per minute or data unit to the local wholesale rate for its Tier. For example, if a Tier III carrier's cost is 10 cents per minute and the local wholesale rate, as calculated above, is 2.3 cents per minute, high cost support for that carrier would be 7.7 cents per minute. As minutes or data usage grows, one would expect the cost per minute or data unit of an individual carrier to decrease.

Tier I wireless carriers have massive economies of scale and purchasing power in comparison to Tier II and especially Tier III carriers. By using a lower multiplier for Tier II and Tier III carriers, large carriers' economies of scale and purchasing power are taken into account.

E. *There must be an individual company cap on support to discourage inappropriate business plans and attempts to game the mechanism.*

The Panhandle Proposal includes a high cost company cap of ten times the national average cost per minute or data unit. This will help ensure that networks not supported by sound business plans are discouraged. For example, if the national average cost per minute is 2 cents as in the examples above, if a wireless CETC's costs are 25 cents per minute, it may be unwise to build out such a costly network since it will only be supported up to 20 cents per minute. However, recognizing that some networks such as those in the Alaska Bush areas may in fact have legitimate high costs above and beyond the cap, the FCC should waive the cap if it is in the public interest to do so.

III. Wireline CETCs should perform individual cost studies similar to the incumbent ETC, and there should be an individual company cap on wireline CETC support.

Wireline CETCs receiving high cost support should be required to perform a cost study identical to the cost study required of rate-of-return ("ROR") ILECs. High cost support received by a wireline CETC should be based on actual cost, *not* the identical support rule. Since many rural CLECs are accustomed to preparing cost studies in their affiliated ILEC areas, they should be willing to prepare a similar study for their CLEC areas as well. However, high cost support for CLEC ETCs should be capped.

Under the Panhandle Proposal, individual company caps on high cost support for wireline CETCs will be based on state high cost support averages per line received by incumbent rural telephone companies in the state. Panhandle proposes a cap of one and one half (1.5) times a state's rural telephone companies'[4] high cost support average per line. This will help discourage economically infeasible networks. However, recognizing that some networks, especially in extremely high cost yet unserved areas, are deserving of support, a waiver process should be allowed

IV. Conclusion

For the foregoing reasons, Panhandle requests that the Commission reconsider its support of ill-advised and ill-tested reverse auctions and instead reform the USF by mandating that carriers use their own costs to determine high cost support. In doing so,

[4] 47 U.S.C. §153(37).

the Commission needs to reiterate its commitment to long-standing universal service principles and to distinguish comments from industry members whose main goal is to eliminate universal service support from the views of those in the industry committed to the provision of universal service to those consumers living in and traveling to high cost areas.

Respectfully submitted,

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