

**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)	CC Docket No. 96-45
Universal Service)	

CONSOLIDATED COMMENTS OF THE ALASKA TELEPHONE ASSOCIATION

The Alaska Telephone Association (“ATA” or the “Association”) submits its consolidated comments in response to three Notices of Proposed Rulemaking (“NPRMs”) issued by the Commission in these dockets on January 29, 2008. In the interest of clarity, ATA will refer to these three rulemakings as the *Identical Support NPRM*,¹ the *Reverse Auctions NPRM*,² and the *Joint Board USF Reform NPRM*.³ Recognizing the interplay of these three rulemakings, the Commission requested interested parties to file their comments on the *Identical Support NPRM* and the *Reverse Auctions NPRM* together with and as part of their response to the *Joint Board USF Reform NPRM*, which ATA does here. Thus, rather than divide its comments by individual rulemaking, ATA is presenting them in consolidated form by subject matter.

The ATA strongly favors the Commission’s proposal to eliminate the “identical support” rule by which high-cost support is currently provided to competitive ETCs, and instead to require that support for such ETCs be based on their own costs which they would be obligated to submit and have approved. The ATA endorses the creation of a separate Provider of Last Resort

¹ FCC 08-4.

² FCC 08-5.

³ FCC 08-22.

(“POLR”) Fund, but opposes applying the same high-cost support mechanism to rural and non-rural POLRs. It also opposes adoption of an integrated high-cost cap covering the POLR, Mobility and Broadband Funds alike. Finally, the ATA strongly opposes the Commission’s consideration of reverse auctions as a mechanism for selecting ETCs or distributing high-cost support funding.

I. Background

The ATA is a trade association of rural Alaska local exchange telephone companies.⁴ As the certificated carriers of last resort serving the most remote and highest cost communities in the state, the ATA’s members clearly understand the necessity of high-cost support and staunchly embrace universal service as a national policy. Without that policy, the networks of many members of the ATA would have been economically impossible to build and many Alaskans would today be without access to modern telecommunications.

Because of the essential role that the high-cost support fund plays for these companies, the members of the ATA are particularly mindful of the threat to the nation’s commitment to universal service policy that unrestrained growth in competitive ETC funding represents. With the universal service surcharge remaining at or near its historic high over a protracted period, the ATA shares the concern of the Federal-State Joint Board on Universal Service (“Joint Board”) that the federal universal service program faces grave jeopardy of becoming unsustainable, due to eroding public support for the goals of affordable and comparable rates and services

⁴ The active members of the ATA are Adak Telephone Utility; Alaska Power & Telephone Company; Arctic Slope Telephone Association Cooperative, Inc.; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova Telephone Cooperative; KPU Telecommunications; Matanuska Telephone Association; Nushagak Cooperative, Inc.; OTZ Telephone Cooperative, Inc.; Summit Telephone Company, Inc.; TelAlaska, Inc.; United Utilities, Inc.; and Yukon Telephone Company, Inc.

articulated in Section 254 of the Communications Act.⁵ As a result, the ATA applauds the Commission's and the Joint Board's determination, as articulated in the rulemakings that are the subject of this current proceeding, to reverse and bring under control the fund's recent explosive growth. In the comments which follow, the ATA identifies those elements of the Commission's and Joint Board's proposals that it believes will most effectively and efficiently achieve that goal, as well as those aspects of the proposed rule changes that are likely to prove harmful to the special requirements of the rural local exchange community and, hence, counter-productive to the public interest.

II. The Identical Support Rule is Unfair and Counter-Productive and Should be Repealed

The ATA strongly endorses the Commission's proposal in the *Identical Support NPRM* to eliminate the "identical support" rule under which competitive ETCs are provided per-line high-cost support equal to that of the incumbent local exchange carriers ("LECs") with which they compete.⁶ The ATA believes competitive ETCs should instead receive funding tied to their own costs of providing supported services. As now recognized by the Commission, the identical support rule has proven to be a misguided and -- although initially well intentioned -- highly inequitable mechanism. If the Commission ultimately adopts no other reforms, repeal of the identical support rule would probably be the single most effective step it could take to reverse the explosive growth of the fund experienced in recent years.

It appears that the concept of making per-line support in a service area "portable" from the incumbent LEC to a competitor was a naïve effort by the Commission, in the wake of

⁵ Joint Board Recommended Decision, FCC 07-4, copy attached to the *Joint Board USF Reform NPRM* (hereinafter, "*Joint Board Recommendation*"), ¶¶ 9, 25.

⁶ 47 C.F.R. § 54.307(a).

passage of the 1996 Telecommunications Act, to achieve “competitive neutrality” for participants in the local exchange market.⁷ But, as the Commission now admits, the precept of “competitive neutrality” was not given meaningful definition at the time it was announced. Adopted in the absence of verifiable competitive ETC accounting standards, the identical support rule has become an invitation to abuse. Because support is not pegged to the competitive ETC’s own cost of investment, the rule serves to skew investment strategies, encouraging competitive carriers to deploy in lower-cost, more densely populated areas, while ignoring the higher-cost portions of a designated service area to which the incumbent carrier of last resort is required to provide equal attention.⁸ Unlike the incumbent LEC, which cannot pick and choose what portions of its certificated area to serve, the competitive ETC can decide whether and when to enter a market, and will do so only when it determines it can compete against the incumbent on favorable terms. The rule thereby permits competitors to enjoy windfall profits at the expense of incumbent LECs, ironically promoting unfair and, in the long run, unsustainable competition in the process. In addition, in the absence of the competitive LEC being accountable for its own cost justification, the Commission and the Universal Service Administration Company requirement to ensure that support funds are used for the purpose of providing supported services is virtually impossible to validate.

This discrepancy in the high-cost support regime is exacerbated by the fact that the majority of competitive ETC funding has gone to wireless carriers.⁹ Since the experience of the

⁷ *Identical Support NPRM*, ¶¶ 7-8.

⁸ *Id.*, ¶ 10.

⁹ *Id.*, ¶ 9.

last decade has demonstrated that the cost structure of wireless networks is different from that of wireline systems,¹⁰ the identical support rule results in windfall profits for mobile operators.

The adverse impact of the rule in its creation of funding demands on the public at large is now well documented, and summarized effectively in the *Identical Support NPRM*.¹¹ Alaska has experienced a similar explosion in competitive ETC funding, dominated, as is the case nationally, by wireless providers. Since 2002, support for competitive ETC operators in Alaska will have grown from an immeasurable level to approximately 44 percent of the entire program in the state, notwithstanding that, of the 34 carriers providing supported services in the state today, only nine are competitive carriers.¹² Moreover, wireless carriers today received more than 90 percent of all high-cost support funds in the state awarded to competitive carriers.¹³ Given the trajectory in growth of funding support for competitive carriers, within the next two years competitive carriers – without any carrier of last resort responsibility -- can be expected to command a majority of all such support in the state, unless steps are taken to reestablish high-cost funding on a rational basis.

The ATA heartily concurs with the Commission’s tentative conclusion that, in place of the identical support rule, the basis for high-cost funding for competitive ETCs, as with incumbent LECs, should be related to their own verifiable costs.¹⁴ The fact that such carriers are

¹⁰ *Id.*, ¶ 22; *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, 19 FCC Rcd 6422, 6437 (2004).

¹¹ *Identical Support NPRM*, ¶ 4.

¹² *See* Exhibits A and B.

¹³ This is because, rather than “capturing” lines from wireline incumbents, as the Joint Board originally predicted would occur, mobile wireless carriers have simply added to the number of lines providing supported services. *Identical Support NPRM*, ¶ 9.

¹⁴ *Identical Support NPRM*, ¶¶ 12-13.

historically classified as non-dominant in their markets should not be determinative of their obligation to demonstrate their own cost basis for deploying and providing supported services. Instead, the enormous capital requirements of maintaining a national universal service policy demand that competitive carriers be made accountable for the support levels they receive. Moreover, adopting such a requirement will advance the Commission's interest in ensuring "competitive neutrality" by requiring competitive ETCs to fulfill cost justification procedures similar to those to which incumbent LECs have always been subject.

The ATA believes that the Commission's proposal to require competitive LECs to receive approval for their cost data from the state commission approving their designations for ETC status as a precondition to qualifying for high-cost support is reasonable, and agrees that such cost data should be submitted annually and line-count data quarterly to ensure adequate public visibility and accountability. The imposition of GAAP standards on competitive ETCs' cost accounting procedures would similarly place the competitors on an equal footing with incumbent LECs, that traditionally have been subject to meeting these standards.¹⁵ It also appears reasonable to the ATA that the Commission should adopt some uniform set of cost standards applicable to competitive ETCs to make the cost approval process both fair to participants and easier to administer. The WiCAC proposal offered by Advocates for Regulatory Action represents one such approach that merits closer analysis.¹⁶

The ATA agrees the Commission should give serious consideration to evaluating high-cost support for mobile wireless carriers independently from those for wireline carriers.¹⁷ Given

¹⁵ *See id.*, ¶ 18.

¹⁶ *Id.*, ¶ 13 n. 40.

¹⁷ *Id.*, ¶22.

the differing cost structure of operating wireless and wireline networks, what might be determined a high-cost service area for wireline purposes should not necessarily qualify as such for wireless operators. The ATA further concurs that, to encourage efficiency in competitive ETCs' delivery of supported services, an overall ceiling on high-cost support equal to the level provided to the incumbent LEC in the designated service area is advisable.¹⁸ Although the ATA assumes that competitive carriers will in most cases require support at levels below the cost structure of incumbent operators, particularly rural ones, the adoption of such a service-area cap will provide another mechanism for containing – and, hopefully, reversing – the growth of the fund.

Finally, the ATA agrees that elimination of Interstate Access Support, Interstate Common Line Support and Local Switching Support for competitive ETCs is a logical extension of discarding the identical support rule.¹⁹ These explicit forms of subsidy were adopted to keep incumbent LECs whole when interstate access charges were largely eliminated. Because competitive ETCs have never relied on access charges for implicit support to begin with, there is no need for these explicit forms of replacement support to be made available to them.

III. ATA Supports Creation of the POLR Fund

Turning to the Joint Board's recommendations for fundamental restructuring of the high-cost support program, the ATA strongly endorses the concept of a separate Provider of Last Resort fund under which support for rural LECs would remain fundamentally unchanged. It is the providers or carriers of last resort that supply the backbone network of the country's public switched telephone system, on which competitive carriers typically rely for backhaul and

¹⁸ *Id.*, ¶ 25.

¹⁹ *Id.*, ¶¶ 23-24.

interconnection.²⁰ Indeed, the POLRs fundamentally represent the essence of universal service as it is their obligation to deploy and maintain service to subscribers in all communities located within the boundaries of their certificated service areas, no matter how remote or difficult to access. Thus, the investment needs of these carriers are driven not by traditional economic risk evaluation, but by the requirement to fulfill the public commitment that every American have access to quality advanced telecommunications and information services at just, reasonable and affordable rates.²¹ In order to ensure that the investments necessary to secure these policy objectives are made, the Communications Act directs that carriers of last resort be able to rely on “specific, predictable and sufficient” funding mechanisms.²²

The Joint Board rightfully recognizes that rural LECs in particular have succeeded commendably in delivering both voice and broadband services to their subscribers on the basis of existing funding mechanisms that, since 2003, have represented a declining burden on the high-cost support fund just as the demands of competitive ETCs for support have grown exponentially.²³ The Board acknowledges that rural LECs have directed a “significant portion” of their High Cost Loop support to fund the capital costs of providing broadband facilities to their customers.²⁴ Support for these carriers, therefore, can continue to be based on their embedded costs without adding to the current burden on contributors to the universal service fund. In this regard, the Commission should use the opportunity presented by the Joint Board

²⁰ *Joint Board Recommendation*, ¶ 22.

²¹ 47 U.S.C. § 254(b)(1), (2).

²² 47 U.S.C. § 254(b)(5).

²³ *Joint Board Recommendation*, ¶ 39.

²⁴ *Id.*, ¶ 30.

Recommendation to repeal section 54.305 of the Rules, which limits high-cost support of rural carriers that acquire exchanges from non-rural carriers to the cost basis of the carrier that divested the exchange. This provision is arbitrary, and serves as a discriminatory disincentive to rural carriers seeking to expand their service areas,²⁵ while also frustrating the ability of such providers to deliver affordable services comparable to those in urban areas.

The ATA applauds the Joint Board for facing the reality that support for a multitude of local exchange competitors in high-cost areas presents an unrealistic drain on the universal service fund, and that support should prospectively be channeled to a single LEC in such areas -- the incumbent POLR.²⁶ It also endorses the fairness of a transition period during which competitive ETCs will be gradually weaned from their present reliance on an irrational level of high-cost support, thereby avoiding precipitous economic displacement.

The Joint Board also has gotten it right in concluding that it is no longer sufficient for rural POLRs to receive support for their local loop and switching costs, but not for their costs of transport.²⁷ It is established that, in general, rural carriers must deploy facilities over larger geographic areas to reach fewer subscribers than non-rural carriers. According to the Rural Task Force Final Report, the average population density for areas served by rural carriers is 13 persons per square mile, compared with 105 persons per square mile in areas served by non-rural carriers. In the vast reaches of Alaska, this figure declines on the average to 0.58 persons per

²⁵ *See id.*, ¶ 20.

²⁶ *Id.*, ¶¶ 31, 35, 43. *Reverse Auction NPRM*, ¶ 10.

²⁷ *Joint Board Recommendation*, ¶ 21.

square mile.²⁸ As the Joint Board recognizes in its Recommendation, withholding support for transport costs can harm rural carriers, particularly when they are forced to purchase special access lines to connect to their end users.

(a) Rural and non-rural POLR funding mechanisms should be kept separate.

There are also elements of the Joint Board’s POLR fund recommendation with which the ATA cannot concur. Foremost among these is the Board’s recommendation that the Commission develop a “unified” mechanism for funding rural and non-rural POLRs.²⁹ Apart from serving as incumbent carriers of last resort, rural and non-rural POLRs have little in common. Non-rural POLRs are generally larger, better funded entities, often publicly traded, with subscriber bases in multiple jurisdictions. The Rural Task Force has documented that rural carriers face substantially higher plant-specific and operational expenses than non-rural carriers; their calling areas are typically smaller than those of non-rural carriers, requiring their subscribers to rely exponentially more heavily on toll service; they generally have fewer high-volume enterprise users, thereby depriving them of the economies of scale enjoyed by non-rural carriers; they face more daunting geographic challenges in the deployment of their networks; and rural carriers serve households with incomes, on average, of 20 percent less than those served by non-rural carriers.³⁰ In contrast to non-rural POLRs, rural POLRs generally lack access to financing for significant infrastructure investments, other than loans from relatively limited and highly specialized sources such as the Rural Utilities Service and the Cooperative Bank

²⁸ Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service, released September 29, 2000 (“*Rural Task Force Final Report*”), at 11.

²⁹ *Id.*, ¶¶20, 23, 40.

³⁰ See *Rural Task Force Final Report*, at 10-14.

(“CoBank”). As a result of these substantial differences, which continue to prevail today, high-cost support for rural POLRs should not be calculated on the same basis as that for non-rural POLRs and should not be evaluated with the same standards.

(b) The Commission should not adopt an integrated high-cost cap.

The ATA also opposes the Joint Board’s recommendation that high-cost support be subjected to an integrated cap that will include not only POLR funding but support for the newly proposed Mobility and Broadband Funds.³¹ The ATA concurs with the Joint Board’s recommendation that discrete funds should be established for the purpose of providing support to mobile telephony operators and Internet service providers. It agrees with the Joint Board that funding for these specialized service providers should be limited to one provider per service area. The ATA also applauds the Joint Board’s recommendation that the definition of supported services should be amended to include, at last, broadband Internet services, thereby putting behind the nation’s official commitment to universal broadband deployment the weight of the universal service program.

But the ATA finds self-contradictory the Joint Board’s recognition that the support for rural POLRs should be retained unchanged, in light of their success in deploying and delivering advanced services within the strictures of their existing funding levels, while at the same time advocating that these POLRs should be required to compete for their funding with the planned beneficiaries of the Mobility and Broadband Funds under a cap that will be pegged at 2007 levels. In so concluding, the Board has demonstrated a superseding concern with the universal service *fund* in place of its commitment to the goal of universal *service*.

³¹ *Joint Board Recommendation*, ¶¶ 11, 26.

The demand of rural LECs for high-cost support has declined on its own in recent years. If these carriers are to continue making the investment that the Joint Board applauds in its recommendation to the Commission, however, this trend might not be able to continue unchecked. According to a NECA study, anticipated consumer demand for fiber optic loops to the home will require in the years to come an additional investment of \$11.9 billion to upgrade some 5.9 million rural access lines to be capable of transporting a minimum 8 Mbps bandwidth.³² The existing caps on High Cost Loop and Local Switching support have already restricted support for many of these rural POLRs below the level of “sufficiency” required by the Communications Act.³³ According to the Joint Board Recommendation, both Mobility and Broadband Fund beneficiaries are expected to receive “significant” funding.³⁴ In addition, the Joint Board suggests obliquely, yet ominously, that “more limits” be considered for operating expenses under the legacy POLR program.³⁵

By placing rural POLRs under a unified cap with non-rural POLRs, mobile wireless operators and Internet service providers, the Joint Board sets the stage for rural POLRs to be subject to yet further, arbitrary high-cost support reductions. Rural POLRs should not be forced to compete with the beneficiaries of the newly proposed Broadband Fund for their broadband funding, as they offer differing avenues to the deployment of advanced services for all Americans. By subjecting such carriers of last resort to an integrated cap, the Board’s

³² National Exchange Carriers Association, *The Packet Train Needs to Stop at Every Door* (June 2006).

³³ 47 U.S.C. §§ 254(b)(5), (d).

³⁴ *Joint Board Recommendation*, ¶ 24.

³⁵ *Id.*, ¶ 31.

recommendation effectively vitiates the recommendation that these operators' existing sources of support be retained intact.

Moreover, the imposition of this arbitrary mechanism should be unnecessary in light of the other elements of universal service reform that the Commission and Joint Board have proposed. If the identical support rule is eliminated, as the Commission has proposed and the ATA agrees, the substantial strain of windfall profits currently underwritten by the high-cost support program should be materially lifted. In addition, the Joint Board itself anticipates that the funding commitments required to support the new Mobility and Broadband Funds should decrease as broadband and wireless infrastructure deployment becomes widespread and these operators are weaned from support.³⁶ In sum, the ATA urges that the Joint Board recommendation for an integrated high-cost cap not be accepted.

IV. The ATA Strongly Opposes the Use of Reverse Auctions

Although initially considered as a universal service mechanism immediately following adoption of the 1996 Telecommunications Act, the practicality of reverse auctions has matured little in the past decade, as evidenced by the fact that the *Reverse Auction NPRM* raises more questions of implementation than it answers. The use of reverse auctions as a mechanism for selecting ETCs and distributing high-cost support funds would represent a disruptive experiment of unimaginable proportions that would threaten the continued viability of the ATA's membership. The Commission suggests that auctions that would determine high-cost support on the basis of the lowest bid to serve an auctioned area would constitute a "market-based approach" and allow "direct market signals" to replace cost estimates from historical cost

³⁶ *Id.*, ¶26.

accounting data.³⁷ As has already been explained above, however, the investment requirements of rural POLRs are driven not by rational market forces but by subjective universal service policy goals. Fulfillment of these goals requires, in turn, the assurance of “predictable and sufficient” funding mechanisms.³⁸ Resort to a stark, competitive market mechanism will not fulfill this statutory guaranty for the rural POLR community.

Experience instructs that auctions favor competitors with the deepest pockets. Rural LECs are generally small companies with limited access to commercial support, serving niche markets and, by nature, dependent on universal service subsidies for their existence. These entities would be placed automatically at a serious competitive disadvantage in an auction environment. Competitive ETCs, with greater resources at their disposal, could easily underbid such incumbents as a means of “bidding in” to take control of a market. High-cost support that would be dependent on the outcome of such auctions would, therefore, be neither predictable nor sufficient for rural POLRs.

A reverse auction program designed to identify a single high-cost recipient per market would, in all likelihood, result in a serious disruption of services for rural customers. Even under an auction mechanism in which multiple winners are possible, with the lowest bidder getting “more” support as proposed by the CTIA, a rural POLR would need to bid less than the amount of support it requires to maintain its services in order to win, which would be a self-defeating proposition. The concept of pitting mobile wireless against wireline operators in the same auction, as proposed by both CTIA and Verizon, would make poor economic sense, given the differing cost structures underlying the operations of these two forms of networks. Most

³⁷ *Reverse Auction NPRM*, ¶¶ 3, 11.

³⁸ 47 U.S.C. § 254(b)(5).

disturbing of all is Verizon's proposal that bids could be solicited for individual wire centers.³⁹ Implementation of this concept would institutionalize the practice of creamskimming rural carriers' highest density, lowest cost service areas, which both the Commission and the Joint Board have identified as harmful to the public interest.⁴⁰ This proposal would also violate the basic tenets of section 214(e)(5) of the Communications Act,⁴¹ that establishes for rural carriers the study area as the appropriate service area for ETC designation.

Certainly, reverse auctions are not the sole means available to eliminate the current support for multiple ETCs in non-competitive areas.⁴² Other, more direct means for achieving this objective have been identified in the *Joint Board USF Reform NPRM*, as discussed above.

Even if the special circumstances of rural POLRs were to be discounted, the use of reverse auctions to choose ETCs is likely to lead to questionable results by encouraging competitors to take risks in underbidding one another. Once a "winner" of such an auction is selected and its competitors either crippled or eliminated through the withdrawal of their high-cost support, the Commission could find itself facing demands for increased support from the lowest-cost bidder without the ability to replace such "winner" with other participants in the market. Resort to reverse auctions as a means of curbing the growth of the universal service fund would produce an unacceptable level of harm to the public interest. Additionally, with the elimination of the identical support rule and the transition to cost-based funding for a single

³⁹ *Reverse Auction NPRM*, ¶ 7.

⁴⁰ See Federal-State Joint Board on Universal Service, *Report and Order*, released March 17, 2005, ¶¶ 48-51; *Joint Board Recommendation*, ¶ 22.

⁴¹ 47 U.S.C. § 214(e)(5).

⁴² *Reverse Auction NPRM*, ¶ 11.

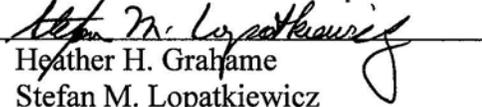
mobility provider in each service area, the goal of curtailing funding growth should be materially achieved.

CONCLUSION

The identical support rule is unfair and outdated, and the ATA concurs with the Commission's proposal to repeal it. The ATA believes that competitive ETCs should instead receive high-cost funding support based on their own costs of providing supported services. The ATA supports the creation of a POLR high-cost support fund, together with separate Mobility and Broadband funds, as proposed by the Joint Board. It urges the Commission, however, to keep rural and non-rural POLR funding mechanisms separate, and not to adopt an integrated high-cost cap. Finally, the ATA strongly opposes the use of reverse auctions, and believes the Commission has other, less radical means at its disposal to curb and even reverse the growth of the high-cost universal service fund.

Respectfully submitted,

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Total Alaska High-Cost Support Payments By - ILECs and CETCs

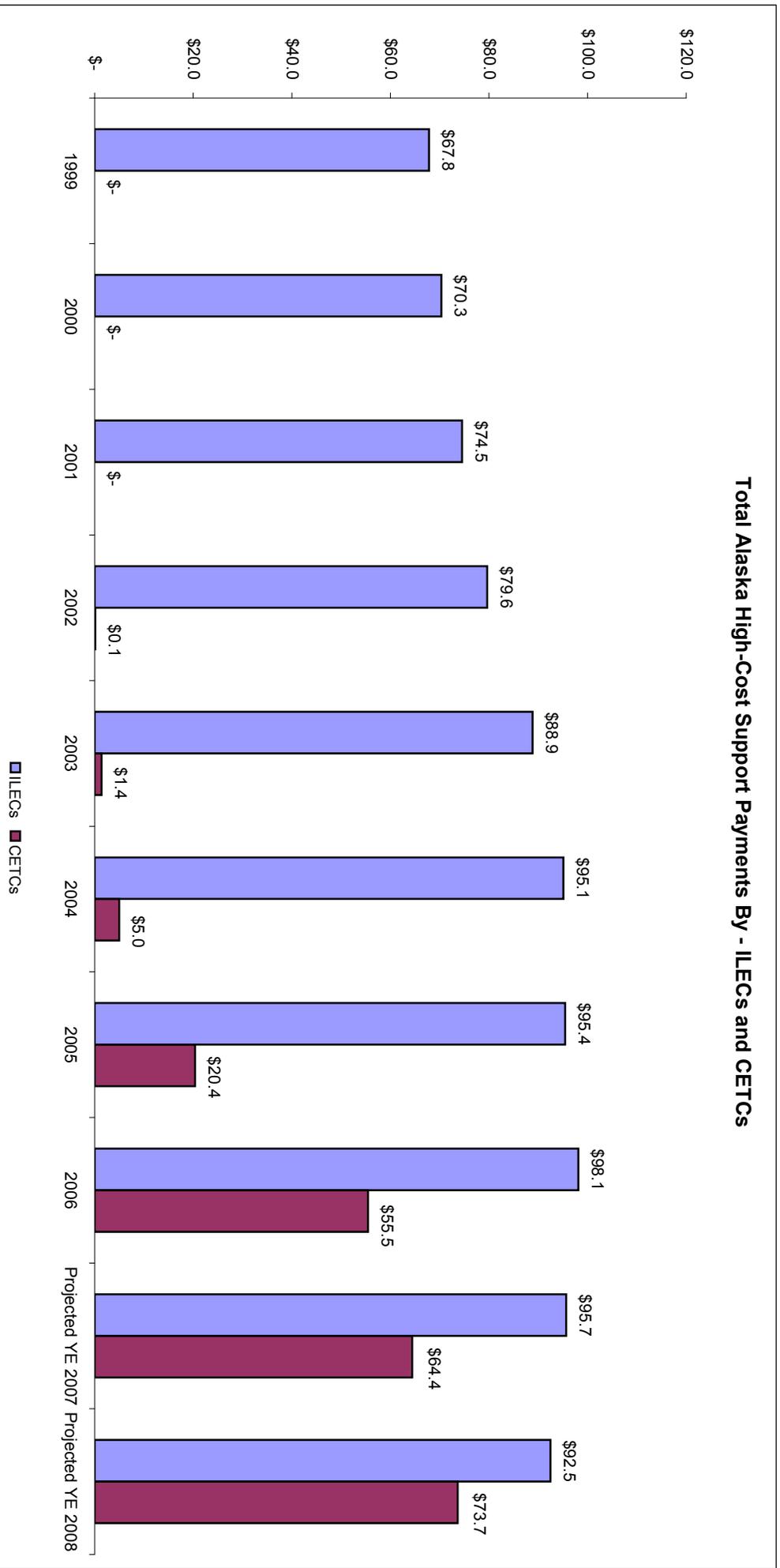
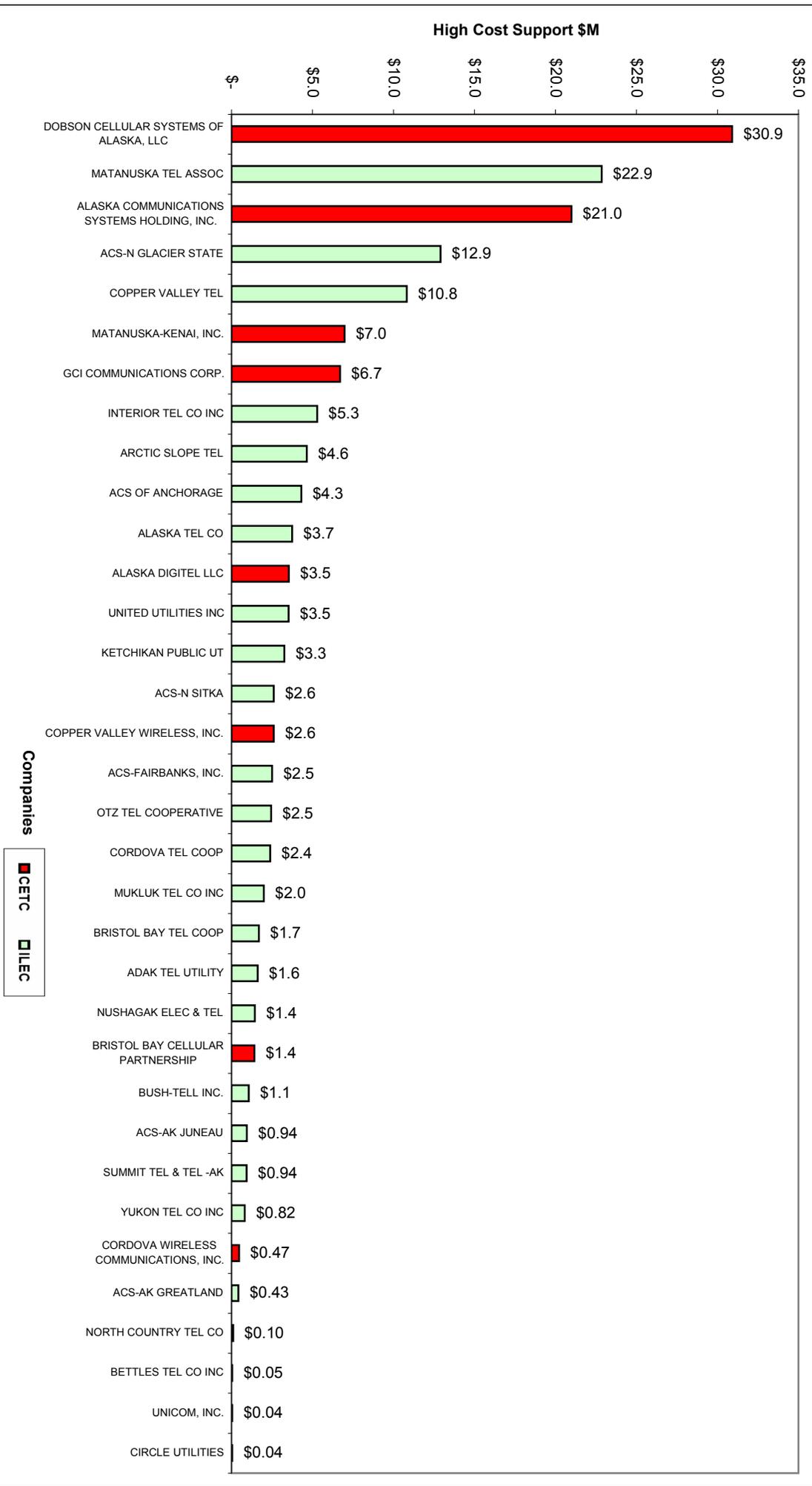


EXHIBIT A

Alaska Projected 2008 High Cost Support Based on USAC 2Qtr 2008 Projections
Sorted by ETC in Descending Order.



Companies

■ CETC
 ■ ILEC

EXHIBIT B