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 CENTURYTEL, INC.

John F. Jones
Jeffrey S. Glover
CenturyTel, Inc.
100 CenturyTel Park Drive
Monroe, LA 71203
(318) 388-9000

Of Counsel

Gregory J. Vogt
Law Offices of Gregory J. Vogt, PLLC
2121 Eisenhower Ave.
Suite 200
Alexandria, VA 22314
(703) 838-0115

Counsel for CenturyTel, Inc.

April 17, 2008

Table of Contents

SUMMARY

The current universal service system needs to be refocused to restore the basic statutory goals of the universal service fund ("USF") as originally mandated by Congress. The FCC should clearly define USF policy objectives to stabilize the fund and further modernize it. The social well-being and economic vitality of rural America have been clear benefits of the USF to date, and such policies should be at the very heart of universal service reform going forward.

CenturyTel is predominantly an ILEC in 25 states. Although its regulatory mechanisms vary widely, these properties are unified in their rural and high cost nature. CenturyTel is committed to meeting the increasing demands of these rural Americans, but requires universal service support to help support the substantial investment in its network to support such demands. Indeed, specific, predictable and sufficient support for these areas holds the key to Section 254's mandate. However, the current system has seriously gone off track by providing support to carriers that do not need it to provide universal service, are serving primarily urban areas, and are receiving essentially an unearned windfall at the consumer's expense.

CenturyTel applauds the efforts of the Federal-State Joint Board on USF ("Joint Board") and the Commission for proposing a focused approach to global USF reform. CenturyTel supports these targeted fixes to the existing USF. CenturyTel makes the proposals in its comments as a blueprint for global reform consistent with this Joint Board recommendation. The FCC should adopt reforms that

1. stabilize the fund where needed,
2. eliminate wasteful spending,
3. maintain development of broadband infrastructure, and
4. ensure accountability of recipients.

Stabilization could be promoted by adopting a new sustainable contribution mechanism, as well as eliminating wasteful funding of competition and adopting an optional freeze for providers of

last resort. Wasteful spending can be eliminated by refusing to fund competition and establishing a more limited mobility fund. Establishing a limited broadband fund focused on unserved areas, together with other sources of funding, can go far to promote availability of advanced services that meet growing consumer expectations. And accountability can be promoted by mandating ETC requirements for all states and equalizing the burdens on all eligible telecommunications carriers ("ETCs"). These achievable goals should be the focus of this rulemaking and not radical reforms based on unproven methods, such as reverse auctions for providers of last resort.

The USF contribution mechanism should be reformed immediately to ensure adequate funding. This reform should be implemented prior to adding new burdens to the fund. It has been long recognized that assessing interstate and international telecommunications service end-user revenues is unsustainable, because the mechanism assesses ever decreasing long distance revenues with an ever increasing factor. The industry is nearly unanimous in supporting reform basing assessments on a fixed basis using working telephone number or connections where no number is employed. This reform will place USF income on a more stable basis, although some transition and phase-in mechanisms may be needed to ease industry and consumer burdens.

After the contribution base is reformed, the USF must stabilize the distribution mechanisms as well. With respect to the provider of last resort fund, there is no necessity for making fundamental changes to the system because it has served customers in high cost and rural territories well over the years. The system must recognize that it is funding network infrastructure development and that stability is the supreme interest for rural carriers seeking funding from shareholders and creditors alike. To achieve this stability, however, a number of small tweaks are required. First, the FCC should adopt an optional freeze on existing USF distributions, adjusted by inflation. Second, the FCC should retain the current system based on embedded costs, but recognize that other modifications may be necessary in the future in specific situations. Third, the safety valve allocation mechanism should be reformed to more accurately fund the costs of rehabilitating access lines in an effort to promote rural infrastructure investment, subject to existing caps to prevent uncontrolled fund growth.

The FCC should create a separate mobility fund, using procedures which can begin to eliminate the funding of competition. The initial step that is critical to achieve this reform is to freeze current awards to competitive ETCs based on a previous recommendation of the Joint Board. After this initial step is taken, the FCC should eliminate the identical support rule. All carriers should receive universal service support based only on their own costs. This would replace the current system based on awarding additional per-line support, largely on the number of wireless handsets, rather than on investment made in infrastructure to bring service to a business or residence. Because competitive ETCs never had access charges, they should not receive access replacement fund support at all, which could never be possible if their own costs served as the basis of support in the first place.

In the longer term, the FCC should refocus mobility support on providing funds to only one wireless provider in a market in areas unserved by a wireless provider. This would ensure that funds were being used to promote universal service, rather than serving as only a windfall to the wireless provider serving primarily urban customers. States may administer the program, but should only be permitted to do so pursuant to definitive federal guidelines in order to produce proper incentives and be consistent with federal law.

To recognize the growing needs of rural Americans, the FCC should create a limited broadband fund that focuses on creating network infrastructure in unserved areas at speeds that are at least 1.5 Mbps in one direction. As with the mobility fund, support should only be allocated to one provider in a geographic area. The size of the broadband fund can and should be limited, by relying on public-private partnerships, tax revenues, rural utility service funding, in addition to USF savings from a retargeted mobility fund, in order to avoid creating a massive new funding mandate for an already over-taxed system.

The FCC should enforce accountability standards that are applicable to all USF recipients. The integrity of the fund depends on recipients meeting public interest obligations in exchange for receiving public interest money, just as ILECs must do today. This requirement can first be implemented by mandating that both competitive ETCs and ILECs be under the same obligations, particularly a carrier of last resort requirement. This can be reinforced by mandating that all states follow the FCC's ETC guidelines. Also, USF beneficiary regulatory oversight should promote parity among providers and be focused as to purpose. Therefore, audits should be administered in an even-handed fashion for both ILECs and competitive ETCs. In addition, the FCC should make clear that the state certification process should promote parity among beneficiaries and should not create inconsistent regulation from state to state. These modest reforms can make a beneficial system even more responsive to consumer needs.

By taking these targeted steps, the FCC can avert a crisis in universal service and place the fund on sound financial footing for the future. Following these basic principles, the FCC should refocus the universal fund to be more targeted and better achieve its original statutory purpose: to ensure that telecommunications services are provided to consumers in rural, high cost, and insular areas of the country at affordable prices.

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 CENTURYTEL, INC.

CenturyTel, Inc. ("CenturyTel"), on behalf of its incumbent local exchange carrier ("ILEC") subsidiaries, hereby files these comments in the above-captioned proceeding in response to the three *USF Notices* adopted by the Commission regarding global reform of federal universal service policy.[1] CenturyTel applauds the Federal Communications Commission's ("FCC's") interest in reforming the broken universal service system and the Federal-State Joint Board on Universal Service's ("Joint Board's") vision in making proposals to accomplish that goal. Rural America depends on the FCC's diligent administration of the universal service system, as embodied in Section 254 of the Communications Act. CenturyTel urges the FCC to adopt comprehensive reforms to the system that modernize the current universal service program while ensuring predictable, sustainable support for providers of critical telecommunications

[1] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service,* Notice of Proposed Rulemaking, WC Docket No. 05-337; CC Docket No. 96-45, FCC 08-22 (rel. Jan. 29, 2008 ("*Joint Board Comprehensive USF Recommended Decision NPRM*"); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service,* Notice of Proposed Rulemaking, WC Docket No. 05-337; CC Docket No. 96-45, FCC 08-4 (rel. Jan. 29, 2008)("*Identical Support Rule NPRM*"); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, WC Docket No. 05-337; CC Docket No. 96-45, FCC 08-5 (rel. Jan. 29, 2008) ("*Reverse Auctions NPRM*")(collectively "*USF Notices*").

infrastructure. These reforms should restore the original congressional mandate: to ensure that consumers in rural, high cost, and insular areas receive affordable telecommunications services while having access to advanced services.

I. INTRODUCTION

A. CenturyTel Serves Americans Living in Rural Areas and in Medium-sized Cities.

CenturyTel is predominantly an ILEC in 25 states. CenturyTel provides a mixture of diverse communications services, including local and long distance voice, broadband, and video services. It serves mostly rural areas and medium-sized cities in these areas under a variety of federal and state regulatory structures, including price caps and rate of return.

The one characteristic that unifies these diverse properties, however, is that the vast majority operate in high cost and/or rural exchanges that require universal service support in order to maintain local exchange service rates and other regulated telecommunications services at affordable prices. This universal service support also permits the company to make infrastructure improvements and to maintain all aspects of the network infrastructure on an ongoing basis that makes communications the reliable essential service that it is for rural Americans. These maintenance efforts and improvements also make the network capable of delivering advanced services, including faster broadband speeds. CenturyTel's average population density is just 16 households per square mile. Of the 1,090 exchanges it serves, the average exchange size is approximately 2,500 access lines. The most rural of these markets have diverse terrain, low population densities, few business customers, and limited cable offerings.

CenturyTel is committed to providing modern, advanced, and diverse communications to rural America at affordable prices. That commitment is not just an idle statement reserved for regulatory pleadings. CenturyTel has backed up its commitment to rural America by purchasing rural exchanges from larger providers and investing substantial dollars into these territories' network infrastructure. That network infrastructure is vital to consumers who rely on it to obtain not only plain old telephone services, but also an increasing array of other services, such as telemedicine, distance learning and other broadband-related services. Wireless, Internet, and cable providers also rely on CenturyTel's core network infrastructure for transport and service delivery. All of these services demand ever increasing bandwidth, necessitating that CenturyTel's investment expand existing network capacity. The company also has to install redundant facilities to ensure reliability in times of disaster or everyday troubles, and investment is constantly needed to modernize its infrastructure to accommodate newer technologies—many of which are provided by alternative providers that utilize CenturyTel's network to deliver competitive services.

Although CenturyTel is ready to meet customer expectations for newer and higher-bandwidth services, the substantial dollar investment committed by its public investors cannot by itself accomplish this forward-looking goal. CenturyTel relies in part on universal service funding to ensure that it can meet evolving customer expectations and achieve the demands that will be placed on its network. Even with these efforts there still exists a core of hard-to-reach customers who are not now receiving broadband and will not for some time given the lack of a viable business case for such investment.

B. The USF Was Intended to Promote Affordable Telecommunications and Advanced Services in Rural, High Cost and Insular Areas.

The FCC by rule created the universal service fund ("USF") back in the mid-1980s to ensure that local telephone companies could provide affordable local telephone service to Americans in rural and high cost areas. The fund was created through monies provided by interexchange carriers. Funds were distributed to ILECs that could prove that they were high cost in accordance with a formula.[2] In 1996, the universal service fund ("USF") fund, which was made up entirely of high cost loop, local switching and lifeline assistance support, totaled about $ 1.2 billion.[3]

The 1996 Telecommunications Act added Section 254 of the Act to enshrine and clarify the FCC's universal service program, to expand the source of contributions to the fund to all interstate telecommunications providers, to dictate that implicit universal service subsidies be eliminated from interstate rates, and to expand USF for schools, libraries and rural health care providers. Section 254 requires in essential part that

> Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information service, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charges for similar service in urban areas.[4]

Any contribution mechanism must be equitable and nondiscriminatory,[5] and the support mechanisms must be "specific, predictable and sufficient . . . to preserve and advance universal service."[6]

Although the FCC implemented a number of the Section 254 requirements, it also vastly expanded the size and the scope of the fund so that today its projected fund size is approximately

---

[2] *MTS and WATS Market Structure*, CC Docket No. 78-72, Report & Order, 2 FCC Rcd 2953 (1987).

[3] Federal & State Staff of Federal-State Joint Board on Universal Service, Universal Service Monitoring Report, CC Docket No. 98-202 (Data Received Through June 2007), at Tables 2.1, 3.1 (rel. Dec. 2007).

[4] 47 U.S.C. § 254(b)(3).

[5] *Id*., § 254(b)(4).

[6] *Id*., § 254(b)(5).

$7.8 billion annually to a variety of diverse recipients.[7] In particular, the FCC added an additional goal to the fund, "competitive neutrality" that was not on the original list.[8] This FCC-developed goal was implemented by allowing any eligible telecommunications carrier ("ETC") to receive the same per line amount of support as the ILEC in the market on an uncapped basis.[9] The FCC declined to impose carrier of last resort requirements on theses competitive ETCs.[10]

The FCC did eliminate the implicit subsidies that ILECs were recovering in interstate access charges by creating two separate access replacement universal service funds: Interstate Access Support ("IAS") for price cap carriers[11] and Interstate Common Line Support ("ICLS") for rate-of-return carriers.[12] Although these two funds initially increased the size of the overall fund, the elimination of implicit subsidies was specifically required by the Act, and this requirement was properly and faithfully executed by the FCC. Since implementation, the size of these funds has remained relatively stable, and the ILEC portion of ICLS funding has remained relatively stable over time.[13] However, almost without analysis, the FCC applied its "competitive neutrality" goal to permit all competitive ETCs to receive access replacement high cost support,[14] even though many ETCs never levied access charges in the first place, and

---

7 *See Proposed Second Quarter 2008 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA No. 08-576, at 2 (Off. Managing Dir., rel. Mar. 14, 2008)(" *USF Contribution Factor 2d Quarter 2008 Public Notice*")(Second Quarter 2008 projected program support multiplied by four).

8 *Federal-State Joint Board on Universal Service*, First Report & Order, 12 FCC Rcd 8776, 8801, ¶ 47 (1997)("*USF First Report & Order*").

9 *Id*. at 8933, ¶ 288, 8944-45, ¶ 312-13.

10 *Id.* at 8847, ¶ 127, 8858, ¶ 144.

11 47 C.F.R. § 54.800, *et seq.*

12 *Id*., § 54.901, *et seq.*

13 *See* Comments of Independent Telephone & Telecommunications Alliance, WC Docket No. 05-337, at 9-12 (May 31, 2007).

14 *See Access Charge Reform,* Sixth Report & Order, 15 FCC Rcd 12962, 13053, ¶ 209 (2000) ("*CALLS Order*"); *Multi-Association Group (MAG) Plan for Regulation of Interstate*

therefore had never received the eliminated subsidy. Consequently, with the additional funding demands, the fund has grown accordingly.

C. Meaningful Reform Would be Welcomed by All: the Universal Service Program is at Risk in its Ability to Fulfill the Statutory Mission.

The federal universal service system has been undergoing enormous strains since the 1996 Telecommunications Act required its reformation. A dramatic increase in funding pressure and a declining contribution base have taken their toll. Rural telephone customers, and indeed, any telephone user in the United States who desires to connect with any caller in any location, as well as health care, low income and education entities, continue to receive significant benefits from the program. However, there are obviously a number of serious problems that require immediate reform.

First, the fund is plagued by unclear goals. For instance, high cost support from access charge replacement funds is being provided to competitive ETCs, even though these carriers never charged access charges in the first place. However, the Congressional mandate to remove implicit subsidies from access charges was intended to be a one-time increase in the size of universal service. Instead, the access replacement and high cost funds are going to multiple competitors in a market, thus funding competitors, rather than ensuring the service is affordable, or even fully available, to all Americans. The system should never have been designed to subsidize competitors in a market; the pro-competition principle is enforced through other Communications Act provisions, such as interconnection contracts and reasonable intercarrier pricing.[15] CenturyTel admits that the system needs to be revamped to accommodate funding for

---

Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Second Report & Order, 16 FCC Rcd 19613, 19678, ¶ 151 (2001)("*MAG Order*").

15 Sections 251 and 252, 47 C.F.R. §§ 251-52, contain detailed provisions on how competitors must interconnect their networks and what services they must provide to each other. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of*

new services that may meet the statutory criteria for funding, such as broadband services, but even those must be addressed on a limited basis to control growth in the fund and account for a declining contribution base.[16] Second, there is a marked lack of accountability by fund beneficiaries that begs for some degree of parity. Although ILECs are subject to carrier of last resort requirements and numerous monitoring and reporting requirements, competitive ETCs have almost no requirements they must meet for the same funds. The auditing of beneficiaries is also uneven among recipients. The FCC must restore accountability to the universal service system by ensuring that high cost universal service funding is being utilized to bring and maintain service to high cost, rural, and insular areas of the country.

Third, the fund is ballooning out of control in a clear example of unintended consequences of a laudable goal.[17] Moreover, much of the fund is going to companies that cannot truly verify to what extent they serve rural and high cost areas because they are funded based on a billing address which may not be where the service is utilized. The end result of the

---

1966, CC Docket No. 96-98, 11 FCC Rcd 15499 (1996); 47 C.F.R. Part 51. Those statutory sections, coupled with Section 201 of the Communications Act, 47 U.S.C. § 201, govern how carriers must compensate each other for use of each other's networks to complete telecommunications services for their end users. Although the courts have recognized that universal service policies must be consistent with the pro-competition goals of the Act, that does not mean that the USF must be provided to competitors based on the costs and receipts of an incumbent ILEC. *See, e.g., Allenco Communications, Inc v. FCC,* 201 F.3d 608, 625 (5th Cir. 2000); *Texas Office of Public Utility Counsel v. FCC,* 183 F.3d 393, 406 (5th Cir. 1999). *E.g.,* Statement of Commissioner Larry S. Landis, *High-Cost Universal Service Support*, WC Docket No. 05-337, 22 FCC Rcd 20477, 20506 (Fed.-St. Jt. Bd. USF, 2007)("*Comprehensive USF Reform Recommended Decision*")("pathology" of existing system funds "subsidized competition" and must end).

16 Section 254 defines universal service as "an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services." 47 U.S.C. § 254(c)(1).

17 The Joint Board has noted that from 2001 through 2006 the amount of competitive ETC high cost support grew from $15 million to almost $1 billion. At the then current rates, competitive ETC funding was expected to grow to $2.5 billion in 2009 even without additional designations. *High Cost Universal Service Support*, WC Docket No. 05-337, Recommended Decision, 22 FCC Rcd 9009, 9000, ¶ 4 (Fed.-St. Jt. Bd., 2007)("*CETC Freeze Recommended Decision*").

FCC and state implementation steps has been a USF that is out of control, and one which subsidizes carriers that may not need or use the money to service rural and high cost customers. The fund is also available to more than a half dozen or more competitors in a single market. This has created the fastest growing portion of the universal service fund, the competitive ETC fund, going primarily to wireless carriers whose key objective is to serve densely populated areas rather than serve as the provider of last resort to rural America. An outsider would certainly cry "waste, fraud, and abuse" in this situation. It is clear the FCC needs to adopt new rules to curb this unmitigated competitive ETC USF growth and to ensure the funding is being utilized to achieve statutory mandates and Commission goals .

Fourth, there is a clear mismatch between the expanding demand for support and the contracting revenue base on which USF contributions are based. Both the continued expansion of distributions and the dwindling contribution base must be urgently addressed.

D. The FCC Should Follow the Lead of the Joint Board and Refocus the Fund to Achieve its Original Purposes, and Update it for Modern Marketplace Needs.

The Joint Board recommended a plan containing elements that could successfully reform the broken USF system in accordance with Section 254's original mandate. This plan shows a path to refocus the universal service fund to its original purpose, while at the same time constraining its growth to preserve it as a viable mechanism for those serving Americans in rural, high cost and insular areas. The FCC should adopt reforms that:

1. stabilize the fund where needed,
2. eliminate wasteful spending,
3. maintain development of broadband infrastructure, and
4. ensure accountability of recipients.

These simple elements can be implemented by taking the steps outlined in this pleading, many of which have already been proposed by the Joint Board. Stabilization of the fund could be accomplished by freezing support payments for existent providers of last resort, eliminating the equal support rules for competitive ETCs, and establishing a stable contribution mechanism. Wasteful spending could be eliminated by limiting the payments to only those competitive ETCs which are providing service to consumers unserved by a wireless provider, not funding multiple handsets in a household. Broadband infrastructure development could be promoted by ensuring that the existing funding of network infrastructure by providers of last resort be maintained, and that a limited fund for broadband development be made available for areas that are unserved or underserved by broadband services. Accountability could be promoted by mandating ETC requirements for all states and by requiring that all ETCs have carrier of last resort obligations to ensure that they meet fundamental universal service objectives in exchange for the receipt of support. CenturyTel explores these program goals in more detail below by outlining the elements that a successful global reform of the USF would entail.

These proposed reforms do not "throw out the baby with the bathwater" but are intended to achieve specific goals which refocus the USF to what Congress originally intended when it adopted Section 254. These reforms should be adopted before any other approach, such as a radical overhaul of the entire mechanism, might entail. Thus, the FCC should shelve the idea of reverse auctions for distributing universal service support for the provider of last resort fund until the other proposals made by CenturyTel are adopted an allowed to work. Only if they still do not achieve meaningful reform should other, untested options be implemented.

II. CONTRIBUTIONS TO USF SHOULD BE STABILIZED THROUGH REFORMING THE USF CONTRIBUTION MECHANISM TO A FIXED PER MONTH LEVY ON RESIDENTIAL AND BUSINESS WORKING TELEPHONE NUMBERS.

Modification of the contribution rules is a pressing aspect of universal service funding today, and must be addressed by the FCC before making any other reforms. With the current contribution factor at 11.3 percent,[18] immediate action is required to stabilize the funding base for universal service. The Commission has acknowledged that the current funding base is contracting, even while demand for support is expanding.[19] The decrease in interstate wireline long-distance minutes (due to the increase in the use of IP-enabled service traffic, wireless services, and other market shifts) has irrevocably changed the funding base.[20] It is critical that the contribution base be expanded and stabilized without further delay, to ensure sufficient funding will be available to fulfill the Communications Act's mandates.

There is near unanimity in the telecommunications industry that the contribution factor needs to be reformed based on a more stable and rational basis.[21] CenturyTel supports the recommendation that "all carriers that utilize the public switched telephone network be required to contribute to the USF as soon as possible."[22] It is the Commission's own policy that universal service should be administered in a competitively-neutral, technology-neutral manner,[23] so distinctions between wireless and wireline service, and between digital subscriber line and cable

---

[18] *USF Contribution Factor 2d Quarter 2008 Public Notice*, This factor is not far from the all time high of 11.7 percent which was reached in the second quarter of 2007.

[19] *See Federal-State Joint Board On Universal Service*, CC Docket No. 96-45, Report & Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24952 (2002) ("USF *Contributions NPRM*").

[20] *USF Contributions NPRM*, slip op. at ¶ 3.

[21] For instance, the USF by the Numbers Coalition is made up of virtually every major type of telecommunications industry member. *See, e.g.*, USF by the Numbers Coalition, *The Consumer Benefits of a Numbers-Based Collection Mechanism to Support the Federal Universal Service Fund* (rel. Jan. 30, 2007).

[22] *A Holistically Integrated Package, Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, 20 FCC Rcd 14267, slip op. at 39, Appendix C (rel. Aug. 17, 2005) (submission of Robert Nelson, Joint Board Member).

[23] *USF First Report & Order,* 12 FCC Rcd at 8801, ¶ 47 ("[C]ompetitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another.").

modem, should be eliminated.[24] IP-enabled services and wireless services are very much dependent on the availability of a ubiquitous public switched telephone network. Wireless providers typically rely on the existing telephone network for backhaul between different parts of their networks. At a more fundamental level, all interconnected service providers, including wireless carriers and cable telephony providers, benefit from their ability to deliver calls to and receive calls from wireline customers. The only equitable, non-discriminatory and technology-neutral rule for contributions that will produce a sufficient base of support is to require all service providers who benefit from the ubiquity of the ILEC-built network to begin immediately to contribute to its support.

Any new rules also should be clear and simple to administer. Legal uncertainty about the treatment of new technologies under today's rules has contributed to the declining base of support. The obligation to contribute should be a bright-line rule, and the rule should be enforceable without extensive FCC audits. It should not be based on criteria, such as an interstate-intrastate jurisdictional revenue split, or bandwidth or throughput speeds, that can be manipulated by the contributor.

For this reason, a number of parties have advocated changing from a revenue-based contribution methodology to a hybrid numbers-based or connections-based methodology. Contributors would simply count the number of customers connected to a working telephone number, IP address, or the equivalent, and contribute based on a multiple of that number.

[24] Some argue that cable or certain VoIP-enabled service providers should not be required to contribute unless they also receive support. However, eligibility to receive support never has been a criterion for the obligation to pay into the fund. *See Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, 13 FCC Rcd 5318, 5465, ¶ 263 (1997) (requiring interexchange carriers and other providers not eligible to receive universal service support to, nevertheless, contribute to universal service).

Assessments on special access circuits and dedicated Internet access connections could fall under this methodology, but may require additional contribution rules. Such an approach has merit provided: (i) the rules are clear and enforceable; (ii) the obligation is inclusive, encompassing all technologies and all users of the LEC-built network in a competitively-neutral manner, with no special exceptions based on technology or uncertain regulatory status; and (iii) the obligation evolves with technology, so if, for example, IP addresses replace telephone numbers in the market, the contribution base would be preserved.

Assuming the FCC's rules keep pace with technological developments in the marketplace, the approach described above could be simpler and produce a broader base of contributors than the current system. CenturyTel understands that moving to a new contribution system will involve operational resources and some time before it can be implemented. Not only do billing systems need to be revised, which often takes several months to accomplish, some aspects of a new mechanism may need to be phased in over time to avoid abrupt rate changes for consumers. Therefore, a reasonably short transition period would be appropriate, for example, over twelve months, in order to address these operational and consumer issues.

III. GLOBAL REFORM SHOULD ENSURE THAT UNIVERSAL SERVICE SUPPORT IS STABILIZED FOR RURAL TELEPHONE COMPANIES TO PRESERVE AFFORDABLE TELECOMMUNICATIONS FOR RURAL AMERICANS.

A. The USF Has Provided Significant Benefits to Americans by Ensuring Broad Availability of Voice Communications, Even in Rural and High Cost Areas.

As the FCC considers how to globally reform USF and to bring advanced services to rural areas, it is worthwhile to remember that the universal service program has been a true success story for telecommunications deployment in this country. However, the program needs refocusing to ensure that the original intent of Section 254 of the Act can accomplish congressional goals in the context of the future evolution in telecommunications networks and services. Further reforms should focus on maximizing the country's core telecommunications infrastructure and investment to deliver the services of the future.

The benefits of the present universal service system are very real for rural communities, the poor, and the users of rural health care services, and schools and libraries. Reform initiatives must be targeted with defined outcomes so that no harm is done to these groups or to the core networks that transport the nation's telecommunications traffic. The challenge faced today is to stabilize the present fund to support core services and networks while transitioning needed support for the services of the future. Recognition must be given to incumbent local exchange carriers ("ILECs") who have successfully overcome the challenges of providing service in lower density service areas, over greater distances, in rugged terrain, to consumers with lower per-capita income levels and among aging populations. These companies have also faced other challenges to deliver innovative and high quality wireline, wireless and satellite-based service solutions—all with an unrivaled customer focus.[25]

It is no accident that today nearly all Americans enjoy access to the highest-quality voice service in the world,[26] and 82 percent of households nationwide have access to broadband services provided by the ILEC.[27] CenturyTel is offering broadband services to over 84 percent of its customers at speeds up to 10 mbps. Some ILECs have been able to make broadband

---

[25] The benefits of encouraging added investments in rural network infrastructure are detailed in M. Balhoff, R. Rowe, & B. Williams, *Universal Service Funding: Realities of Serving Telecom Customers in High-Cost Regions* (Summer 2007).

[26] Currently the FCC estimates universal service at about 94.9% availability. *See Telephone Subscribership in the United States (Data Through November 2007)*, Alexander Belinfante, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, at Table 1 (Mar. 2008).

[27] *High-Speed Services for Internet Access: Status as of June 30, 2007*, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, at 3 (Mar. 2008).

available to over 90 percent of the households they serve.[28] These accomplishments are the direct result of consistent and disciplined investment by the telephone industry over the decades, and regulatory policies that closed the service gap between Americans who can and cannot afford high-quality service. That success now must be extended to telecommunications services that will be delivered via robust networks evolving to accommodate next generation voice service, high-speed data, video and other applications. The true test will be to keep such services viable and affordable for rural consumers going forward.

B. High Cost Loop Support Should Recognize that Funding is for Networks, Not Providers, and that the Current System Works Well to Provide an Infrastructure that Supports Both Voice and Broadband Services.

Networks are expensive. Services deployed over high quality networks are relatively inexpensive. Wireline networks will continue to serve as critical infrastructure for most basic and advanced services for the foreseeable future. Both Internet Protocol ("IP") applications and mobile services depend today and for the foreseeable future on the presence of reliable wireline networks to function properly. The popular view that IP and wireless services are replacing wireline services distorts the critical reliance of these services on the modern wireline network.

Networks require significant fixed investments, and wireline networks, in particular, have high fixed costs and low variable costs. Telecommunications networks include transport, central office and switching, customer loops, trucks and crews, centralized customer service centers, and other elements. Virtually all of these elements require substantial initial investment, have varying economies of scope and scale, and are not quickly scaled up or down. Further, ongoing

[28] *See, e.g.*, Reply Comments of the Independent Telephone & Telecommunications Alliance to the Petitions to Deny, WC Docket No. 07-22, at 3 (May 14, 2007) (noting that Madison River's network, now owned by CenturyTel, is nearly 100% broadband-enabled and that DSL is available to approximately 83% of TDS's ILEC access lines); Opposition of FairPoint Communications, Inc. and Verizon to Petitions to Deny, WC Docket No. 07-22, at ii (May 7, 2007) (noting that 92% of FairPoint's customers in its rural New England exchanges have access to broadband today).

expenditures are significant for maintenance, expansion, and technological improvements, contrary to the popular view that suggests that the network is built and requires little additional support. Ironically, much of the investment alluded to above is made within the backdrop of long-standing state and federal regulatory requirements designed to protect the public interest. These policies mandate that carrier of last resort obligations impose reliability and public safety mandates—all borne almost exclusively by ILECs and no one else.

Much policy confusion has resulted from an unclear understanding of the relationship between networks and services. Virtually all network designers understand that adding and subtracting customers changes costs only at the margin, especially in the short run. The major expense and risk for providers of last resort remain in the construction of networks, whether the customers are few or many, whether the product bundle is a basic service or includes multiple features. Further, the cost of deploying new services can vary, depending on the investment and type of plant a carrier has available, but that cost is *not* a linear progression that can be calculated per subscriber. A related point is that carriers need to invest well in advance of demand—for business reasons and for public policy reasons. Thus, the voice network requires redesign to eliminate long loops, load coils, and bridge taps to provide a better data and next generation voice platform that benefits the individual subscriber (often relatively few at first), the community, and public policy. When there are relatively few customers, the network costs per subscriber are high; costs generally diminish as the network is better utilized. Particularly for the loop component, different networks will have different cost characteristics. For example, a wireless network (which generally rides over the wireline transport network rather than over the cell-subscriber's last mile) may be able to add lines with a relatively lower investment to customer ratio particularly if wireless carriers do not have to serve as the provider of last resort.

The FCC has previously wrestled with this policy confusion in the referral concerning covered services (what is the relation between particular services and the underlying network) and in its consideration of the primary line restriction.[29] The *Notices* indicate the FCC is interested in moving toward a longer-term focus on networks as robust platforms for an array of services sought by rural and urban customers alike. As described below, the Rural Task Force's recommendation continues to be the most thoughtful and relevant public policy statement on this point.[30]

The other side of a network-focused policy is ensuring that parties who are using the network are required to assist in paying for the network. Lawful rates should be paid. Balhoff & Rowe filed Reply Comments in the Intercarrier Compensation proceeding urging that a rules-based approach be implemented to deal with problems of unbillable and under-billed traffic—so-called "phantom traffic.[31] Many carriers, including Verizon and wireless carriers, have agreed on the details of an approach to phantom traffic, including the particular technical or definitional points.[32] These efforts demonstrate that this traffic constituted as much as twenty percent of the traffic hitting their networks.

Some providers, mostly those providing IP-enabled services have complained loudly that their attempts at innovation are being thwarted by ILECs who are not allowing them to fashion

---

29 *In the Matter of Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96-46, 19 FCC Rcd 10812 (Fed.-St. Jt. Bd. USF, 2004)("*ETC Recommended Decision*").

30 *See* Letter from William R. Gillis, Chair, Rural Task Force, to Magalie Roman Salas, FCC, CC Docket No. 96-45 (Sept. 29, 2000) ("a*ttaching Rural Task Force Recommendation*").

31 Comments of Independent Telephone & Telecommunications Alliance and Balhoff and Rowe in CC Docket No. 01-92 (Dec. 7, 2006).

32 *See* Letter from Glenn Reynolds, United States Telecom Association, to Marlene H. Dortch, FCC, CC Docket No. 01-92 (Apr. 4, 2008)

services that are wanted by the American public.[33] They claim that they are being straight-jacketed into the ILEC mold. Well, this debate is fundamentally all about the network, and how it is going to be paid for. These entrepreneurs, although laudable for their high ideals and innovative services, do not care whether they pay for the network; they simply want to market services at low cost or perhaps "for free" to consumers. But policy makers should not be bedazzled by such lofty aspirations: all the innovation in the world is worthless if there is not a reliable network on which to transport the services. That network needs expanding and modernizing to accommodate these new services. Rather than being "sunk investment" that has been recovered, there are numerous costs and investments required to upgrade and maintain it. And each of these users should have to pay its fair share for the network's use. The current policy debates miss completely the networks' essential role in achieving the goal of universal service.

C. The Current High Cost Loop Mechanism Should be Stabilized to Provide Certainty to Markets and to Ensure Infrastructure is Maintained and Built Out.

1. The FCC should provide an option to freeze high cost support received by providers of last resort.

The current credit crisis has rightfully concerned companies and policymakers alike. Attracting capital at reasonable rates is essential to maintaining this critical infrastructure. These days, and perhaps on all days, Wall Street is looking for certainty in the regulatory arena so that it can predict outcomes and make investment decisions. The current state of telecommunications regulation, particularly in the universal service area, is in so much flux that Wall Street is highly jittery about making such necessary commitments. Even incremental reform of USF can provide

---

33 *See* Feature Group IP Petition for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Section 251(g) Rules 51.701(a)(1) and Rule 69.5(b) (filed Oct. 23, 2007).

a degree of needed certainty, certainty which will promote investment in infrastructure that can be used by all Americans, including those in rural, high cost and insular areas.

The FCC should conclude that its existing high-cost support mechanisms can be frozen at the study area level or on a statewide basis subject to fluctuation based on inflation much like the existing rural growth factor. This option would provide funding certainty and stability that will encourage investment in rural America. It clearly recognizes the high fixed costs of building and maintaining a bandwidth hungry network, and is clearly justifiable in today's environment. Such a freeze would also help facilitate capital planning and investment over the long term as companies have a better understanding of the funding available to make requisite expenditures. The fund will benefit because overall growth for these particular types of support will not grow. Consumers will benefit because their contributions will be more predictable as well.

2. Do not fix those parts of the system that are not broken. Retain current mechanism for ILECs to receive support.

The FCC's current system of distribution of high cost support to ILECs has worked reasonably well. Other than certain instances where support is not being provided to needed areas, there is no reason for the FCC to reform that part of USF that is not broken. For rate-of-return carriers, most of which are small, an embedded cost approach works very well. Generally, embedded costs are consistent with core principles of Section 254, including specific and sufficient support (Section 254(b)(5)), reasonable comparability of service and rates (Section 254(b)(3)), and promotion of access to advanced services (Section 254(b)(2)). The reasonable predictability of documented cost recovery allows rural rate-of-return carriers to invest in networks, and facilitates deployment of advanced services over those networks. Embedded costs are also especially amenable to auditing, as support is based on investment already made.

There may well be specific situations which require a different approach, but those do not alter the fundamental conclusion that embedded costs have proved to be a workable mechanism for years. CenturyTel is happy to participate in an evaluation of some alternative mechanism, such as cost modeling, but has not seen a mechanism to date that could provide CenturyTel properties with support which is specific and predictable to achieve the purposes behind Section 254 of the Act.

3. The Safety Valve mechanism should be reformed to better promote rural infrastructure investment.

One clear path to benefit many rural consumers, while fostering broadband deployment in underserved rural areas, is to change the allocation mechanism to better reflect the investment needs and rehabilitation expenses of newly acquired exchanges, subject to existing caps to ensure that fund growth is controlled. The Commission recognized the need to promote rural infrastructure investment in creating the capped "safety valve" mechanism for rural carriers acquiring high-cost exchanges.[34] Targeted reform of the safety valve mechanism was proposed by both the Missoula Plan and the Intercarrier Compensation Forum ("ICF"). The ICF specifically endorsed that the reimbursable portion of a buyer's expenses over and above what the seller was spending should be increased from 50% to 75%, and should include more categories of costs related to rehabilitation of the acquired network, not just a limited category of loop plant expenditures.[35] This change to broaden the availability of support for a greater percentage of rehabilitation expenditures would significantly improve the underutilized safety

---

[34] *RTF Order,* 16 FCC Rcd at 11284, ¶ 97; 47 C.F.R. § 54.305(d).

[35] Letter from Gary M. Epstein to Marlene H. Dortch, CC Docket No. 01-92, transmitting Intercarrier Compensation Forum, Intercarrier Compensation and Universal Service Reform Plan, at 80-81 (Oct. 5, 2004)("*ICF Plan*") .

valve fund. The overall cap on the total amount of annual safety valve support could remain in place as an assurance that these limited measures would not grossly expand the size of the fund.

IV. GLOBAL REFORM SHOULD ESTABLISH A MOBILITY FUND THAT IS LIMITED AND FOCUSED ON PROVIDING AND MAINTAINING SERVICE TO UNSERVED AREAS.

The current situation is pretty damning when you hear it laid out:

- CETCs receive support based not on their proven investment in a market, but rather only on their promise to invest in the future.
- Competitive ETCs receive support in the form of an entitlement based not on their own costs but on the costs of the ILEC.
- An unlimited number of competitive ETCs may be supported in any market, regardless of the amount of support being awarded per "line."
- The competitive ETC may be supported for an unlimited number of handsets per household; and the support awarded to ETCs is unrelated to need—support that was designated as "access revenue replacement" is awarded to ETCs though they never had any access revenues to begin with.
- Moreover, while the support is intended to ensure residents have access to quality local service at affordable rates, there is no assurance that either the service quality or the rates of the competitive ETC are being monitored.
- At the same time, many competitive ETCs have argued for less state oversight through the elimination of regulations designed to protect consumers and promote competition.[36]

All of the above has resulted in public policy gone awry, and an upside-down business model for wireless carriers and ILECs.

A. The FCC Should Freeze Competitive ETC Funding Pending Reform of the Fund.

In many rural areas, the public interest is best served by a single provider receiving government support.[37] Notwithstanding, multiple competitive ETCs are being funded whether

---

[36] Section 332(c)(1)(A) classified commercial mobile service ("CMRS") providers as common carriers subject to all of the requirements of carriers under the Communications Act except those that the FCC determines are inapplicable, but the Commission may not specify that a provision is inapplicable if it is necessary for the protection of consumers. *See* 47 U.S.C. § 332(c)(1)(A)(ii). Similarly, states are preempted from regulating rates and entry of CMRS providers but not from regulating the "other terms and conditions" of wireless offerings. 47 U.S.C. § 332(c)((3). However, wireless carriers have systematically resisted attempts to regulate their customer contracts and billing practices. *See, e.g.*, Sarmad Ali, The 10 Biggest Problems With Wireless and How to Fix Them, WALL ST. J., at R1 (Oct. 23, 2006).

they use the money to advance universal service or not. Between 2000 and 2007, competitive ETCs, most of them wireless carriers, have received more than $ 3.5 billion in cumulative funding through 2007.[38] Wireless carriers continue to lag behind the wireline industry on many important consumer protection and public interest obligations. Compliance with the FCC's E-911 mandates, improvements in call completion and quality-of-service, and resolution of customer billing complaints are lacking in many markets. Capping competitive ETC support at last year's levels is a sensible interim measure to control growth in the overall high-cost program. Given the present rate of growth in competitive ETC funding, the interim cap will keep the fund from growing substantially in coming years.

B. The FCC Should Eliminate the Identical Support Rule.

1. CETCs should have to prove eligibility for funding based on their own costs.

There is wide-spread agreement among policymakers that the identical support rule should be eliminated.[39] There are significant costs associated with the current "identical support" regime, but there is no necessary relationship between support and investment or service. The claim is made that basing support on the competitive ETC's own cost would violate competitive neutrality

---

37 In March 2003, Chairman Martin reiterated his past and continued concerns with the use of universal service high-cost funds to support competition and multiple ETCs in rural areas: "When the FCC adopted its *MAG Order*, I publicly questioned the use of universal service support as a means of creating "competition" in high cost areas. In expressing this concern, I questioned the wisdom of a policy that subsidized multiple competitors to serve areas in which costs are prohibitively expensive for even one carrier. I also warned that this policy may make it difficult for any one carrier to achieve economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning service fund. Recent data appears to verify the urgency of this issue." Remarks by Kevin J. Martin, Federal Communications Commission, to the Santa Fe Conference of the Center for Public Utilities Advisory Council, Santa Fe, New Mexico, at 6 (Mar. 18, 2003).

38 This estimate is based on USAC figures for 2000 through 2007; the 2007 figure is projected based on the first three quarters annualized.

39 Indeed, the *Identical Support Rule NPRM* achieved unanimous support from the FCC. Commissioners, even though the other two *Notices* stirred far more controversy among the Federal-State Joint Board and Federal Communications commissioners voting on these matters to date.

and send the wrong signals to investors and markets. However, ILEC support is based on expenses and investment already incurred—including those created by state and federal regulatory requirements not imposed on wireless CETCs; while, absent effective standards, equity analysts treat wireless competitive ETC support as practically pure margin. The identical support rule is not "competitively neutral" and sends the wrong signals and incentives to the markets. Rather, it simply gives each carrier the same amount of money, regardless of their differing costs.

CenturyTel believes that a system based on actual costs would be the most sustainable, given that it has worked successfully in the wireline context for over thirty years. And uniformity, such as has been adopted with the Part 32 system of accounts,[40] is key to being able to verify and audit such cost showings. However, CenturyTel understands that a cost-based model could impose added burdens on wireless companies and will take some time and resources to implement. Therefore, only if carriers are unable to identify embedded costs, CenturyTel would support use of a Commission-sanctioned wireless specific theoretical cost model if the model did not overfund wireless operations or consume too many government resources to implement.[41] A third option would be to employ the reverse auction mechanism for selecting the one mobile providers in a geographic territory.[42]

---

[40] 47 C.F.R. Part 32.

[41] However, such a model would have to be adopted swiftly and made applicable to existing providers in order to prevent the growth of the high cost fund. It may be that, if the fund is refocused in the near term to only support unserved areas, such modeling becomes less important because relatively fewer players would need to utilize it. In any event, if such a model is not in place, the FCC must adopt a freeze on payments to existing competitive ETCs until the FCC fully implements the cost-based rules for all players. *See CETC Freeze Recommended Decision*. Use of reverse auctions to pick a mobile provider in an unserved area would be another approach that would impose fewer burdens than a full, uniform system of accounts approach.

[42] Although CenturyTel has raised serious concerns about how a reverse auction system would be created and implemented for providers of last resort, those same concerns do not apply to a mobile provider that is not acting as the incumbent carrier in the area. *See* Comments of CenturyTel, CC Docket No. 05-337, at 8-23 (Oct. 10, 2006).

2. USF should not be provided to competitive ETCs based on the number of handsets a customer owns.

One of the additional inequities in current universal service high cost funding is the fact that wireless ETCs can obtain support based on each handset that is owned by a subscriber or family. The proliferation of wireless family plans has resulted in significant USF growth for wireless CETCs. In the wireless model, every new handset added to an account based on a non-verified billing address gains addition per-line support. The incentives such a situation encourages are disturbing: the wireless carrier is now encouraged to merely add handsets, not install more infrastructure to add new residences to the system. It would also be motivated to add those handsets in a territory with an ILEC who receives the most support per line, regardless of where the customer actually uses the phone. Although the elimination of the identical support rule will correct this inequity over time, the handset rule and its attendant anti-market motivations should be eliminated immediately.

3. Competitive ETCs should not receive access charge replacement support because they never had access charges.

There is simply no justification for allowing competitive ETCs to receive access charge replacement support. Wireless ETCs never had access charges and always recovered this type of cost from their own subscribers since they have no equal access requirements.[43] In addition, replacing implicit support in access charges with explicit universal service support was created as a Congressional mandate to remove implicit subsidies from access charges and the process was implemented in a revenue neutral manner for the affected ILECs.[44] Not so with competitive ETCs who only experienced vast increases in revenues through application of the identical

---

[43] *See, e.g., Petitions of Sprint PCS and AT&T Corp., For Declaratory Ruling Regarding CMRS Access Charges*, 17 FCC Rcd 13192, 13196, ¶ 9 (2002), *pet. for rev. dismissed*, *AT&T Corp. v. FCC*, 349 F.3d 692 (2003).

[44] *MAG Order*, 16 FCC Rcd at 19668, ¶ 130.

support rule. As such, competitive ETCs are not situated similarly to an ILEC. CenturyTel believes that the Commission's tentative conclusion, that competitive ETCs should no longer receive IAS and ICLS, is correct and that the removal of such support should be applied to mobile competitive ETCs as soon as possible.[45] The FCC could significantly reduce the amount of universal service dollars needed in the fund through this one change alone. IAS and ICLS were created to replace access revenue and lower interstate access charges in the Commission's *CALLS* and *MAG* proceedings, respectively.[46] These high cost mechanisms were specifically designed for ILECs.[47] Furthermore, since IAS has an annual targeted level of $650 million, funds provided to mobile competitive ETCs based on the identical support rule actually reduce the funds available to properly compensate the local exchange carriers whose interstate access revenues were diminished by the CALLS plan. Restoration of these funds[48] to ILEC's high cost wire centers eligible for IAS will increase money available for investment in network facilities, including joint use facilities that can be used to provide broadband service. The support has become a pure windfall for wireless carriers, a windfall that is neither justifiable nor sustainable.

C. Longer Term, the FCC Should Reform the Fund to Provide Support Only for One Mobile Carrier and Only for Purposes of Providing Service to Unserved Areas.

1. Support for multiple carriers in an area and multiple handsets per household should be phased out as quickly as possible.

As the Joint Board recommended, the mobility fund should be refocused as soon as possible to one that supports new wireless service to previously unserved territory. CenturyTel

45 *Identical Support Rule NPRM*, ¶ 23.

46 *CALLS Order*, 15 FCC Rcd at 13043, ¶ 195; *MAG Order*, 16 FCC Rcd at 19667, ¶ 128.

47 *Id*.

48 Currently approximately $190 million of IAS annually is being provided to competitive ETCs, which are mostly wireless carriers. *See* Universal Service Administrative Co**.,** Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2008, at 9 (Feb. 1, 2008)(Second Quarter 2008 IAS projections for competitive ETCs multiplied by four).

admits that supporting mobility for all Americans is a laudable goal. Although CenturyTel doubts whether public funding is necessary or appropriate to foster such service, it is willing to support the Joint Board recommendation if it is limited in scope, clear in its accountability requirements, and focused in its purpose. CenturyTel has heard the complaints of American farmers and rural businesses and consumers that they are unable to obtain mobile service in remote areas. And these areas are the more expensive to serve for a wireless carrier which often does not generate enough revenue from such locations to justify adding a new cell site. Although line of sight technology limits the ability to reach some types of subscribers, such as those who live in mountainous areas of the country, it can be useful to establish service where few subscribers live.[49]

However, there is no justification for granting support to multiple wireless carriers in an area. Although CenturyTel supports the goal of competition, universal service funding is not the mechanism to promote competition. Indeed, Chairman Martin has been decrying this unjustified industrial policy for years.[50] Wireless carriers argue that USF is necessary to bring service to rural areas. If there is insufficient revenue base to justify even one service provider, how can it make sense for the USF to subsidize several providers? CenturyTel submits that this is not a wise use of public funds and it should no longer be condoned.

---

49 The FCC should recognize, as all state commissions do with wireline services today, that there is a cost-revenue break point where it is concluded that adding new service to a customer located in a very isolated area cannot justify the additional expense of public funds or other subsidies. Therefore, for example, service to one or a few households in a remote mountainous valley may not be economically rational in requiring other subscribers to subsidize such a high cost venture either in an individual company's own rates or through use of universal service funds.

50 *See, e.g.*, *ETC Recommended Decision*, 19 FCC Rcd at 10870 (separate statement of Commissioner Kevin J. Martin).

2. States may administer the program, but only pursuant to definitive federal guidelines.

The Joint Board also recommends that state commissions administer the distribution of mobility universal service support. CenturyTel appreciate that states have valuable information and experience that could prove beneficial to the universal service administration process. States do have a direct interest in ensuring the sufficiency of high cost loop support in particular because this type of high cost support is intended to keep the price of local exchange service affordable. We therefore think that a carefully crafted role for state public utility commissions would be acceptable.

However, CenturyTel has some trepidation about this recommendation. A system whereby the federal government raises money, but states spend it, has an inherently flawed element: an entity that is not politically responsible for levying a tax has insufficient incentive to ensure that funds are properly and efficiently spent.[51] CenturyTel believes that one of the real problems in funding competitive ETCs occurred exactly for this same reason: the spender of competitive ETC money has no political skin in the game. Although CenturyTel is not accusing any particular entity of wrongdoing, every policymaker should pause before creating a system that is not designed with proper accountability and motivations.

In addition, the Court in both *Qwest I* and *Qwest II* emphasized that the universal service mandate is a federal, not a state, responsibility under the Act.[52] Therefore, any system of state administration would have to be defined and managed by the FCC in order to be legal under Section 254 of the Act. In implementing this directive, delegation of authority to state entities

[51] A state matching requirement may indeed better align administration and political accountability goals. *See* Statement of Commissioner Larry S. Landis, *Comprehensive USF Reform Recommended Decision*, 22 FCC Rcd at 20506.

[52] *See Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001)("*Qwest I*"), *order on remand*, 18 FCC Rcd 22559 (2003), *remanded*, *Qwest Communications Int'l, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005)("*Qwest II*").

must be accompanied by clear guidelines and rules, in addition to FCC oversight and management. In particular, the FCC should establish a process whereby a company who is aggrieved by a particular decision of a state commission could appeal the decision to the FCC for adjudication under the FCC's rules.[53] In particular, states should not be permitted to impose other regulatory requirements in this process that are unrelated to universal service like they do in the existing certification process that do not treat ILECs and competitive ETCs alike.[54]

V. THE FCC SHOULD CREATE A LIMITED BROADBAND FUND THAT FOCUSES ON ENCOURAGING ONE PROVIDER IN A MARKET TO CREATE INFRASTRUCTURE NECESSARY TO SERVE CURRENTLY UNSERVED SUBSCRIBERS.

The Act requires that the FCC promote the ability of consumers across the country to have access to advanced telecommunications and information services.[55] As a rural provider, CenturyTel observes that the primary drivers of evolving broadband services are ever-increasing speed, affordability, and the bandwidth requirements of content being transmitted over the Internet. Customers also demand services that are reliable, high-quality and uninterrupted—a hallmark of dedicated rural operators that have made substantial infrastructure investments to deliver advanced services. Broadband consumers want services that are fast and versatile, with increasing amounts of bandwidth and the ability to keep pace with the latest content available. For the long-term success of universal service, the FCC's global reform of USF should include establishing principles to ensure a solid foundation for our evolving broadband-based economy, supporting the framework established in the Joint Board's Recommendation.

[53] State public utility commissions could be authorized to conduct experimental auctions to select a USF recipient for the mobility fund in order to determine whether reverse auctions would prove workable and to learn from the experiences. Plans such as that proposed by Verizon could provide a reasonable framework for such a procedure. *See Modernizing Universal Service: A Design for Competitive Bidding*, attached to Comments of Verizon and Verizon Wireless, WC Docket No. 05-337 Appendix, (filed May 31, 2007).

[54] *See* Section VI.B., *infra*.

[55] 47 U.S.C. 254(b)(2). *See also* Telecommunications Act of 1996, §706(a).

The first logical step of determining how to support the availability of networks capable of providing broadband services is to properly define what “broadband” and “support for broadband” really mean. CenturyTel urges the FCC to develop a set of baseline broadband principles that will guide universal service policies for the next five years. For instance, the FCC should define broadband services entitled to support under the broadband fund as those services capable of providing access at a capacity of 1.5 Mbps or more in one direction. Such a definition ensures that real advances in broadband services are promoted with broadband funding and recognizes the increasing consumer needs in rural America. Once the supported broadband service has been defined, the definition needs to be reviewed regularly to keep affordable bandwidth speeds in rural markets comparable to those experienced in urban areas.

A. The FCC Should Continue to Support Investment in Rural Infrastructure that is Capable of Delivering Interstate Broadband Services to Subscribers.

The Commission has observed that rate-of-return cost recovery rules and high-cost loop support already have helped ILECs deploy broadband in many previously unserved rural areas.[56] In most areas, existing programs foster meaningful investment and innovation by recipients, and should continue to do so. Despite remarkable success in deploying broadband services in some very rural areas, CenturyTel recognizes the cost of providing such services to the remaining unserved or underserved areas will be expensive as will be meeting the increasing capacity demands of existing customers.

[56] The Commission already has rejected the notion that a consumer should pay substantially more for digital subscriber line and voice services over the same line compared to purchasing only one of the two services using that line. *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities,* Report & Order and Notice of Proposed Rulemaking, CC Docket No. 02-33, 20 FCC Rcd 14853, 14928-29, ¶ 143 (2005) (“It would cause a consumer who buys the two services over the same loop to pay much more for that facility than a consumer who buys only narrowband service, even though the cost of that facility is fixed and does not vary in proportion to usage.”).

Most service providers are under relentless pressure to deploy broadband capability to all communities, no matter how small or remote. President Bush has made universal broadband deployment a national priority, stating, "The goal is to be ranked first when it comes to per capita use of broadband technology."[57] Chairman Martin affirmed the Commission's commitment to creating regulatory incentives for deployment of broadband services throughout the country, calling it "my highest priority as the new chairman of the FCC."[58] However, in order to have sufficient capital for the substantial investment required, and to be able to deploy broadband at rates consumers can afford, adequate cost recovery rules and some form of support must be made available.

Broadband support is needed for rural networks whether a particular customer uses the network for only voice service or for advanced services. CenturyTel has particular concerns regarding several categories of costs that are not adequately supported today. First, funding is necessary for the recurring monthly transport paid to other providers as part of the advanced telecommunications services to many remote rural areas. Inter-office transport between CenturyTel's local exchange area and the nearest tandem-switched point of aggregation may be hundreds of miles. Backhaul between the local exchange area and the nearest urban Internet access point may be even farther.[59] None of this transport cost is expressly covered by federal high-cost programs today. If advanced broadband capabilities are to be affordable to rural consumers, as required by the Communications Act, sufficient funding must be provided to help offset the costs of building infrastructure for rural service, including transport costs. Increasing

57 Jodi Wilgoren and David E. Sanger, Bush and Kerry Offer Plans for High-Tech Growth, N.Y. TIMES, at A18 (Jun. 25, 2004).

58 Kevin J. Martin, Editorial, United States of Broadband, WALL ST. J., at A12 (Jul. 7, 2005).

59 This backhaul infrastructure also is relied upon by Internet service providers, wireless providers, IP-enabled service providers, and others sending traffic to or receiving traffic from rural customers.

the speed and capacity of broadband services will critically demand more and broader band transport services to these remote regions.

Second, CenturyTel believes that if 100 percent broadband penetration in rural markets is the goal, sufficient, predictable funding will have to be made available over the long term. Many of CenturyTel's exchanges serve only a few hundred customers. From a business perspective, before CenturyTel can justify leasing or building fiber transport to bring broadband Internet access to a small, isolated exchange, the recovery of recurring costs associated with such an undertaking would have to be addressed. CenturyTel believes that the current rules related to loop cost recovery should be improved.

As the industry transitions to a broadband, connections-based environment, the FCC should consider adoption of proposals to support all network cost components vital to providing advanced services to rural communities. Ultimately, CenturyTel believes separate funding for broadband will produce meaningful results and will not be cost prohibitive. Separate funding will make a significant difference in enabling unserved or underserved rural markets with broadband service.

B. The FCC Should Recognize that Broadband Deployment is about Both Deploying Service to Unserved Areas and Increasing Bandwidth for Modern Advanced Communications.

The FCC should also recognize that broadband deployment in rural areas is not simply about availability of a broadband service, but may also involve building infrastructure necessary to deploy higher-speed services. Public policymakers have long recognized this evolving nature of broadband communications.[60] Therefore, upgrades of existing broadband systems to provide higher speeds than are currently being provided should also be funded under the program.[61]

60 *See, e.g.*, United States Senate Committee on Commerce, Science, and Transportation, Stevens Pushes for Deployment of Broadband in Rural America, Press Release (rel. Dec. 13,

C. The FCC Should Fund Broadband through Multiple Sources, Such as through Tax Revenue, Low-Interest Loans, and Savings from Other USF Programs.

To mitigate pressure on any single funding source, CenturyTel supports solutions which may include a combination of federal funding, low-cost loans from the Department of Agriculture's Rural Utilities Service ("RUS"), federal tax credits, and public-private partnerships. Innovative programs such as Connect Kentucky[62] demonstrate the strength of public-private partnerships in which telecommunications service providers and states collaboratively solve broadband deployment and subscribership challenges associated with servicing low-density markets.

1. The fund should compensate only one provider in an unserved service territory.

As CenturyTel recommended for the mobility fund, the Joint Board also recommends that broadband fund only one provider in a geographic area. This policy conclusion applies with equal force here.[63] Universal service funds should not be used to subsidize competition; rather their focus should be on enabling a carrier to build out its rural or high-cost network that can accommodate advanced services.

2007); Statement of Congressman John D. Dingell, Chairman, Committee on Energy and Commerce, Subcommittee On Telecommunications And The Internet Public Safety And Broadband Development Markup (rel. Oct. 10, 2007).

61 As indicated in Section IV.C., *supra*, the Commission should be careful when it funds a system that would simply be operating in competition with an existing broadband provider, even though it might promise greater bandwidth. Such duplicative investment would create the same unnecessary public spending as has occurred with wireless ETC funding.

62 *See* http://www.connectkentucky.org.

63 *See* Section III.C.1., *supra*.

2. States may administer the program, but only pursuant to definite federal guidelines.

In addition, as stated in the section addressing the mobility fund, the Joint Board also recommends that broadband fund only one provider in a geographic area.[64] CenturyTel does not oppose this proposal, but continues to have trepidations about it unless there are clear FCC rules and effective oversight as stated in Section III.C.2., *supra*.

VI. ACCOUNTABILITY STANDARD SHOULD BE EQUALLY APPLICABLE TO ALL RECIPIENTS.

A. Both Competitive ETCs And ILECs Should Have the Same Requirements for Obtaining USF Support.

Acknowledging the progress made through the Commission's *ETC Order*,[65] there still continues to be a significant mismatch between ILEC and wireless or other carrier duties. Most states impose carrier of last resort obligations on wireline carriers independent of any high cost fund support they may receive. While specific requirements vary from state to state, in general, wireline companies must build and maintain ubiquitous and very reliable networks and receive USF funding after the investment is made. Wireless ETCs, on the other hand, usually only build networks to serve high value customers or areas, and do not build out service to virtually all customers in a territory, particularly where there is low density. And, in the most egregious affront to accountability standards, they receive much of their USF support before the investment is made. Wireline carriers are subject to detailed customer service and service quality requirements; other carriers are subject to almost none in comparison. Wireline carriers are generally required to provide unlimited local calling, and are subject to various other retail and wholesale requirements, have extensively deployed E911, and provide backup power.

---

64 *Comprehensive USF Reform Recommended Decision,* 22 FCC Rcd at 20481-82, ¶ 15.

65 *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 20 FCC Rcd 6371 (2005)("*ETC Order*").

The *ETC Order* adopted advisory guidelines for states to follow in granting ETC obligations, including reporting requirements, demonstration of coverage, and assurances that lifeline customers would be served and that emergency communications could be provided.[66] However, this effort has generally been viewed as failing to meet the intended goals. It has done nothing to retard ETC grants, and certainly has done nothing to ensure that wireless carriers serve unserved customers or otherwise promote universal service. And ultimately fundamental differences between the regulatory regimes are likely to remain. All ETCs should have similar requirements, particularly carrier of last resort requirements that are enforceable. These requirements must be adopted at the federal level because of ongoing uncertainty about the extent of state commission's ability to regulate wireless carriers.[67]

B. Regulatory Oversight Should Be Focused to Achieve Parity Among ETCs and ILECs.

CenturyTel agrees that both state and federal governments need to assure themselves that universal service funds are being used for the intended purpose. However, CenturyTel is concerned that this may not always be occurring today.

For instance, CenturyTel agrees with the FCC that a responsible auditing program of USF beneficiaries is a necessary part of ensuring that public monies are being wisely spent.[68] All program beneficiaries should be audited alike, with no favoritism shown for particular providers. It has been clearly established that the growth of the high cost fund is driven by increasing CETC

---

[66] *Id.*, 20 FCC Rcd at 6380-88, ¶¶ 20-37.

[67] Although Section 332(c)(3) of the Communications Act, 47 U.S.C. § 332(c)(3), gives states authority to regulate the "other terms and conditions" of wireless offerings, the wireless industry has been vigorously and relatively successfully contesting all state regulation both in the courts and in Congress.

[68] The FCC has clearly identified universal service auditing as an important function in its budgetary goal-setting. Federal Communications Commission, *FY 2009 Budget Estimate*, at 12 (Feb. 2008).

funding pressure amounting to $1.2 billion for the current annual period and that the ILEC portion of the fund has remained relatively flat. Common sense dictates that increased scrutiny relating to how funds are actually being used is warranted. Although eliminating the equal support rule will solve this problem substantially, a fair and efficient auditing program is still necessary for those competitive ETC beneficiaries who will continue to receive transitional support amounts. All carriers should be audited equally. The entire audit process would benefit through a more clearly defined and targeted audit program, utilizing knowledgeable and trained auditors, all with careful oversight by knowledgeable FCC staff..

Likewise, state commissions should not be able to impose additional regulation on ILECs in the context of the approval process to obtain state certifications required by the FCC's universal service rules.[69] CenturyTel is concerned that such additional requirements could be inconsistent from state to state, making operations very difficult for a company like CenturyTel that operates in 25 states. Such additional regulations should also not be selectively imposed only on ILECs because an unequal playing field undermines competition for telecommunications services. The FCC could regularize the certification process by reiterating its expectations in imposing this requirement.

VII. CONCLUSION

For the foregoing reasons, CenturyTel urges the Commission to adopt its plan for global reform of universal service, which is based in large part on the recommendation of the Joint Board. This reform should be based on the principles that (1) stabilize the fund where needed, (2) eliminate wasteful spending, (3) maintain development of broadband infrastructure, and (4) ensure accountability of recipients. Following these basic principles, the FCC should refocus the

---

[69] 47 C.F.R. §§ 54.313-14.

universal fund to be more targeted and better achieve its original statutory purpose: to ensure that telecommunications services are provided to consumers in rural, high cost, and insular areas of the country at affordable prices.

Respectfully submitted,

By: /s/ *Gregory J. Vogt*

Gregory J. Vogt
Law Offices of Gregory J. Vogt, PLLC
2121 Eisenhower Ave.
Suite 200
Alexandria, VA 22314
(703) 838-0115

Counsel for CenturyTel, Inc.

John F. Jones
Jeffrey S. Glover
CenturyTel, Inc.
100 CenturyTel Park Drive
Monroe, LA 71203
(318) 388-9000

Of Counsel

April 17, 2008

Certificate of Service

I, Gregory J. Vogt, do hereby certify that I have on this 17th day of April 2008 caused a copy of the foregoing "Comments of CenturyTel, Inc." to be served by electronic mail upon the following:

Antoinette Stevens
Telecommunications Access Policy Division
Federal Communications Commission
Room 5-B540
445 12th Street, S.W.
Washington, DC 20554
Antoinette.Stevens@fcc.gov

Best Copy and Printing, Inc.
Portals II
Room CY-B402
445 12th Twelfth St., S.W.
Washington, D.C. 20554
fcc@bcpiweb.com

/s/ Gregory J. Vogt
Gregory J. Vogt