

**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 THE TELEPHONE ASSOCIATION OF MAINE**

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The Telephone Association of Maine (TAM) is a trade association comprised of all of the Incumbent Local Exchange Carriers (ILECs) in Maine. TAM offers the following comments in response to the Commission's Notices of Proposed Rulemaking<sup>1</sup> released on January 29, 2008, in the above captioned proceeding (NPRMs).

**IDENTICAL SUPPORT RULE**

TAM supports the Commission's conclusions regarding the elimination of the identical support rule. For too long competitive Eligible Telecommunications Carriers (CETCs) have been permitted to utilize Universal Service Fund monies to subsidize growth in existing markets without regard for the Universal Service goal of expanding comparable service to high cost customers at rates that are comparable to the services and rates found in non-high cost areas. In Maine, U.S. Cellular and RCC Minnesota Inc. d/b/a Unicel have been certified as CETCs and have been receiving millions of dollars a year to provide service in areas where service is already being provided by at least one other Eligible Telecommunications Carrier (ETC). Moreover, the money they have received has been completely divorced from their actual costs to provide service resulting in a windfall to provide competitive services that do not support the underlying tenets of Universal Service.

In at least one instance, a wireless CETC has disconnected service to a customer who had no other options for telecommunications service. The customer in question, Historic Pittston Farm in Rockwood, Maine, operates a fishing lodge in northwestern Maine where there is no other service available. They had been served by RCC of Minnesota, Inc. d/b/a Unicel through an analog cell site. When Unicel announced they were discontinuing analog service they disconnected the customer and indicated that it would be too expensive to establish a digital cell site to serve the customer. This despite the tens of millions of dollars Unicel has received to

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<sup>1</sup> *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-22, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) (Joint Board Comprehensive Reform NPRM); *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-4, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) (Identical Support Rule NPRM); and *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-5, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (Reverse Auctions NPRM).

supply Universal Service in Maine. When CETCs fail even the most basic tenet of Universal Service, namely ensuring connectivity for all customers, it is incomprehensible why they should continue to receive federal support, much less support based on costs that far exceed their actual costs.

The Identical Support Rule encourages abuse of the system in two ways. The first way is by encouraging CETCs, especially wireless CETCs, to claim large high cost areas as their service territory, use the underlying LEC's costs to establish their recovery, and then proceed to simply invest in competitively active locations in the State. In highly rural States like Maine, this results in wireless CETCs receiving tens of millions of dollars a year without expanding their coverage areas beyond existing service center locations that are, generally, already served by multiple providers. Some examples of the uses to which USF monies have been used in Maine by CETCs include:

- A cell site within the Bangor Mall, located in Maine's second largest city;
- Updating the EDGE network data service, as opposed to voice service, software in Bangor;
- 4 cell sites within Lewiston, a city which has not only two wireless CETCs offering service in addition to Verizon, but also a competitive local exchange carrier, Oxford Networks, offering fiber to the premises to customers within the city;

The other way in which the existing rules encourage abuse is by encouraging States to certify CETCs, especially wireless CETCs, that fail the requirement of 47 USC § 214(e)(1) that services must be available throughout the entire service territory of the CETCs. In both cases in Maine where the Maine Public Utilities Commission certified wireless CETCs, the CETC was, and remains, unable to demonstrate the ability to offer services in all areas of their service territory. Nonetheless, States that certify these carriers are guaranteeing that there will be some degree of Federal money to support investment of a competitive service that ultimately benefits the State economy in the short term. Because the support from the Federal USF exceeds the actual costs to the CETCs for providing the service, States cannot help but feel that this is a windfall that they must take advantage of in order to bolster local economies. Unfortunately this pits rural States against urban States in the discussions surrounding the Federal USF and creates political tensions which endanger the legitimate cost-based USF support that actually does get used to ensure reasonably comparable service at reasonably comparable rates for customers in high-costs areas of the Nation.

Limiting support to actual costs would help in minimizing the incentives to abuse the system and focus support where it is truly needed. TAM wishes to emphasize that we do not oppose Federal USF support for legitimate CETCs. Indeed, in the example given above regarding the fishing lodge that was disconnected by Unicef, U.S. Cellular did go in and build a cell site and help the lodge obtain a strong enough receiver at their location to provide telephone service where such service was not otherwise available. In instances like these, where monies are used to provide service wirelessly in areas where it makes more sense than attempting to string wireline service to extremely remote locations, TAM agrees that the goals of Universal Service are being promoted and the wireless provider should receive support. But the support

even in these cases must be based on the actual cost to the wireless CETC, otherwise any economic advantages to using wireless technologies rather than wireline technology will be lost.

### **REVERSE AUCTIONS**

TAM believes that the analysis set forth by the Commission in the NPRMs concerning reverse auctions for Universal Service support gives insufficient weight to what must be the primary driving principle of any Universal Service support: the provisioning of Carrier of Last Resort service. Reverse auctions cannot work if the winning carrier is not required to be carrier of last resort in all exchanges in which they are receiving USF support, with such obligations enforceable at the State commissions as well as at the FCC. Granting Universal Service money to competitors without tying the support to carrier of last resort obligations is nothing more than taxing customers of basic exchange service to provide financial windfalls to competitive service providers. Indeed, at a minimum the FCC should require all ETCs to comply with the standards set forth in the *ETC Designation Order*, including requiring ETCs to abide by State commission consumer protection Rules.

ILECs, such as TAM's members, rely on Universal Support in high cost areas to ensure that they are able to provide complete coverage throughout their service territory in order to provide these carrier of last resort obligations. If this funding amount is not steady, sufficient and predictable, it makes it difficult for companies in high cost areas to provide comparable service at comparable rates to all customers who wish telephone service. If, through the reverse auction process, the level of funding for companies varies based on competitors underbidding the ILEC for all or part of the ILEC's service territory, the ILEC will be forced to recover the lost funding from the rates of the remaining customers on the ILEC's network. Given that there are no rate requirements for competitive providers who would be undercutting the ILECs to receive the Universal Service support, the net result would be customers seeing their basic rates rise with no assurance that the competitive providers in the market would offer affordable service. This result is directly contrary to the goal of Universal Service. It would in fact increase the likelihood that individuals would be unable to afford any telephone service, thus decreasing overall subscribership.

The proposal to establish two sets of Universal Service funding support, one set for the ILECs and one for competitors, would simply continue the rampant growth in the Fund that has brought this matter to the forefront in Congress. If the FCC does not act to reduce the overall fund expenditures in a manner that protects actual Universal Service, as opposed to competitive windfall profits, there is a very real danger that Congress will reduce the fund in such a manner that customers in high cost areas of the Nation, such as customers in rural Maine, will no longer be able to obtain reasonably comparable service at reasonably comparable rates. the Joint Board recognized this, stating:

“Moreover, the Joint Board recognizes that unrestrained growth in the universal service fund, regardless of the source, could be, and would likely be, catastrophic for universal service. The universal service surcharge rate currently is near its historic high. Further uncontrolled growth in the fund size would likely harm universal service, possibly even causing erosion of

public support for the goals of affordable and comparable rates and services articulated in Section 254.” *Joint Board Recommended Decision*, at ¶ 25.

The FCC should simply reject the notion of reverse auctions and focus its resources on ensuring that the core principles of Universal Service, including affordable carrier of last resort service, are protected and promoted.

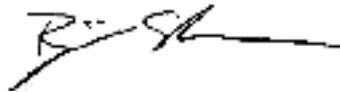
### **JOINT BOARD RECOMMENDATIONS**

TAM is concerned that the Universal Service fund has been allowed to expand unchecked primarily as a result of wireless support with limited Universal Service benefits. However, to the extent funding from the Universal Service Fund is used for wireless and broadband purposes, TAM agrees with the Joint Board that these funds should be held as separate and distinct funds.

With regard to use of wireless funds, the Joint Board’s proposal that funds be limited to unserved areas is a step in the right direction, but it should be expanded to clarify that the areas where universal support should be used are those areas where a company would not otherwise invest. Throughout much of Maine, and doubtless other States, there are significant parts of the State where there is no signal available, such as areas along the interstate or other major connecting roads between two population centers. These gaps remain, despite propaganda from wireless companies touting the public safety benefits of wireless service. Funding from the Mobile Fund should be targeted first and foremost at those locations where an ETC would not otherwise invest but which would fulfill the dual purposes of (1) increasing public safety; and (2) actually moving towards a point in which the ETC will be able to actually offer service throughout their entire territory pursuant to 214(e)(1), as they supposedly had to show in order to receive ETC designation in the first place. Support from the Mobile Fund should also not be used to subsidize competition. Accordingly, the Mobile Fund support should only be allowed for areas where no other wireless provider offers service.

To the extent the High Cost Fund is capped, TAM agrees with the Joint Board that each category of support should be capped at its own level to eliminate the possibility of new CETCs draining resources from the rural LEC high cost support.

Respectfully Submitted,



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