

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

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

**REPLY COMMENTS OF
THE RURAL TELECOMMUNICATIONS GROUP, INC.**

The Rural Telecommunications Group, Inc. (“RTG”),¹ by its attorneys, hereby submits reply comments in response to comments filed with regards to the Federal Communications Commission’s (“FCC” or “Commission”) three Notices of Proposed Rulemaking (collectively, “Notices”) concerning the high-cost universal service support program.² In the comment round, reverse auctions received negative reviews from most

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies. RTG’s members are Tier III mobile carriers that have joined together to speed the delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. Many RTG members rely on high cost universal service support in order to extend vital mobile services into underserved or previously unserved rural regions. RTG’s members are small businesses serving or seeking to serve secondary, tertiary, and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

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

small and rural carriers. Rural carriers were almost universal in their disdain for reverse auctions as a way to determine high-cost universal service support for eligible telecommunications carriers (“ETCs”) pursuant to Section 254(e) of the Communications Act of 1934, *as amended* (the “Act”). While there were still some diehards intent on keeping the identical support rule, most industry players recognized the need to abandon this artificial construct. Most of the Federal-State Joint Board on Universal Service’s (“Joint Board”) suggestions for reform of the Universal Service Fund (“USF” or “Fund”) lacked any consensus. If there was any overall industry consensus in the comment round, it was a call for a smaller, more efficient high-cost fund. RTG continues to support the Panhandle Proposal which promises a more targeted fund and looks forward to more industry comment on this plan in this reply comment round.

I. Reverse Auctions Are Almost Universally Opposed by Rural Entities

RTG, as it noted in its comments, is opposed on principle to the use of reverse auctions to determine eligibility for high-cost universal service support and to determine carriers’ funding levels.³ RTG’s concern about reverse auctions reflects a general rural aversion to the use of reverse auctions that is evident in the comments. Even rural members of Congress have recently weighed in with their dissatisfaction with “this flawed concept.”⁴ Cellular South, Inc., General Communication, Inc. (“GCI”), Independent Telephone & Telecommunications Alliance (“ITTA”), Missouri Small telephone Company Group, Montana Telecommunications Association (“MTA”),

WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) (“*Joint Board Comprehensive Reform NPRM*”).

³ RTG Comments at 4.

⁴ *See* Letter from Senators Byron Dorgan, Chuck Hagel, *et. al.*, to FCC Chairman Kevin J. Martin (May 6, 2008).

National Exchange Carrier Association, Inc (“NECA”), Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), Rural Cellular Association and Alliance of Rural CMRS Carriers (“RCA”), Rural Independent Competitive Alliance (“RICA”), TDS Telecommunications Corporation (“TDS”), Telecom Consulting Associates (“TCA”), US Cellular Corporation, and Western Telecommunications Alliance (“WTA”) all reject the use of reverse auctions.⁵

Many commenters, like RTG, urged the Commission to reject any reverse auction mechanism since reverse auctions are contrary to the statutory principles that define universal service. As NTCA notes, “[h]ighly erratic, competitive bidding is at odds with an Act that requires ‘specific, predictable, and sufficient’ support mechanisms.”⁶ The Oklahoma Corporation Commission (“OCC”) mentions that the FCC’s stated goal of universal service is that “consumers in all regions of the nation should have access to telecommunications services that are reasonably comparable to those services provided in urban areas at reasonably comparable rates.”⁷ OCC is concerned that under a reverse auction regime, “it is probable that the incumbent LEC would suffer economic hardship, stop operations or go bankrupt,” thus denying rural consumers access to even the most basic telecommunications services.⁸

⁵ RTG notes that Sprint Nextel Corporation’s (“Sprint”) opposition to reverse auctions is not motivated by any concern for rural areas as is the opposition of most carriers, it is motivated by an avaricious desire to eliminate high-cost support and lower Sprint’s contributions as fast as possible. *See* Sprint Comments at 12 – 13.

⁶ NTCA Comments at 44 (footnote omitted).

⁷ OCC Comments at 14 (footnote omitted).

⁸ *Id.* at 15.

Both NTCA and NECA provide a chilling, real world example of the deleterious effect on consumers of a reverse auction. NTCA and NECA document the disastrous results of “low-ball” competitive bidding in California and Massachusetts for telecommunications Relay Service (“TRS”).⁹ In those cases, complaints about shoddy TRS service spiked, many customers gave up on using relay services, and in some instances, many TRS providers left the state rather than offer cut-rate TRS. RTG urges the Commission to abandon its quest for reverse auctions if it does not want to see a deterioration of the provision of universal service on a nationwide scale.

As RTG expected, most supporters of reverse auctions in the comment round were affiliated with large, nationwide or super-regional (mostly urban and suburban) carriers that eschew serving remote, rural regions. For example, AT&T Inc. (“AT&T”), CTIA – The Wireless Association (“CTIA”), Alltel Communications, LLC (“Alltel”), Verizon, and Verizon Wireless support reverse auctions in one form or another. One does not have to be cynical to appreciate that the main motivation for these larger supporters of reverse auctions is a desire to reduce the overall size of the high-cost universal service fund. Like most competitive carriers, these carriers are simply responding to the natural desire to lower their contributions into USF and thus lower their customers’ overall bills. Absent from this competitive concern is a genuine concern for consumers in rural areas. This is where the FCC must step in to ensure that rural consumers are *not* overlooked by the carriers that dominate the nationwide market and generally eschew the most high-cost, rural markets. Reverse auctions will allow large

⁹ NTCA Comments at 37 - 40 and NECA Comments at 28 – 30.

carriers to low-ball high-cost support in the pursuit of lower contributions and provide minimal service.¹⁰ This is contrary to the purpose of universal service. As the FCC moves forward, it needs to bear in mind the almost universal aversion to reverse auction from small, rural telecommunications providers in this proceeding.

III. It Is Time to Eliminate the Identical Support Rule and Use Actual Carrier Costs to Calculate High Cost Support

As RTG noted in its comments, any long term universal service reform must recognize the role of rural wireless carriers in the provision of vital high cost mobile services and the FCC must target support to carriers genuinely committed to serving high cost areas.¹¹ With the FCC's recent release of the *Interim Cap Order*,¹² it appears as if the FCC is somewhat committed to allowing genuine high-cost providers in rural areas to continue to receive the necessary high-cost support. Specifically, the FCC eliminated the identical support rule for competitive carriers and will allow competitive ETCs to demonstrate that their own costs may justify uncapped support.¹³ RTG expects that high-cost, competitive ETCs will avail themselves of the FCC's cost-based cap exception and applauds the Commission for including this provision. RTG notes that the *Interim Cap*

¹⁰ Large, nationwide wireless carriers primarily serve densely-populated areas and interstates, avoiding low-density, high-cost rural areas where rural consumers live, work, and play.

¹¹ RTG Comments at 7.

¹² *In re High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, Order, FCC 08-122 (May 1, 2008) ("*Interim Cap Order*").

¹³ *Id.* at ¶ 1.

Order is by no means long term reform, especially since the Order deals solely with competitive ETCs, basically leaving incumbent ETCs whole.

As RTG expected, the industry overwhelmingly supports a permanent end to the identical support rule. Alltel,¹⁴ CenturyTel, Inc., Independent Telephone & Telecommunications Alliance (“ITTA”), Missouri Small Telephone Company Group, MTA, National Cable & Telecommunications Association (“NCTA”), NECA, NTCA, Pennsylvania Public Utility Commission, RCA, RICA, SouthernLINC Wireless, TCA, TracFone Wireless, Inc., Vanu, Inc., Verizon and Verizon Wireless, WTA, and Windstream Communications, Inc. all generally support the elimination of the identical support rule. It would appear as if the grand experiment with incumbent carrier costs has come to an end.

Most of the commenters who desire to keep the identical support rule are less concerned about the rule’s fallibility than about the discriminatory aspect of eliminating the identical support rule simply to lower high-cost support for competitive ETCs, especially wireless ETCs. CTIA and Sprint share this concern.¹⁵ If the recent *Interim Cap Order* is any guide, CTIA and Sprint have reason for concern. In that Order, the FCC appears to buy into the Joint Board’s anti-wireless bias by focusing interim reform solely on competitive ETCs, knowing full well that most of them will lose high-cost

¹⁴ Alltel’s opposition to the “deeply problematic” identical support rule is part and parcel to its call for reform of the entire USF program, including legacy wireline ETCs. See Alltel comments at 22. RTG supports Alltel’s contention that long term universal service reform must include the mobility and broadband services that consumers demand, rather than turning back the clock to a program where only voice-grade services over copper lines are supported.

¹⁵ See CTIA Comments at 16 – 19 and Sprint Comments at 7-11.

support under a cap. While RTG is also concerned that long term reform may exclude legitimate high cost support for wireless carriers, RTG believes that there is a major distinction between wireless carriers that serve *both* urban areas rural areas, and carriers like RTG's members that primarily serve *only* rural areas.¹⁶ As RTG noted in its comments, the Joint Board's Recommended Decision and its resurrection of carriers of last resort ("COLR") under the provider of last resort ("POLR") moniker is "anything but reform" with its recycled concepts from the universal service debates of the early 1990s.¹⁷ Consumers are adopting wireless services at an incredible rate and any long term reform must include support for the provision of high-cost wireless services, as well as landline services.¹⁸ Although RTG commiserates with its larger brethren concerning any anti-wireless bias, RTG believes there still exist ample reasons and a strong consensus for eliminating the identical support rule.

IV. The Panhandle Proposal Is Gaining Support

RTG supported the Panhandle Proposal in its comments and is pleased to note that others support the Panhandle Proposal, filed as an *ex parte* letter in CC Docket No. 96-45 on January 11, 2008.¹⁹ MTA supports the Panhandle Proposal's use of the cost per minute, rather than cost per line/customer approach to wireless high-cost support.²⁰ This approach eliminates any game playing over customer addresses and targets support to the

¹⁶ By serving highly-profitable urban areas, larger carriers are able to internally subsidize their rural areas. Pure, rural-based carriers are unable to do this.

¹⁷ RTG Comments at 12.

¹⁸ Landline services, especially in rural areas, play a vital role in the transport of wireless (and broadband) services.

¹⁹ See footnote 3, *supra*.

²⁰ MTA Comments at 12-14.

network, not just the number of customers of the carrier owning the network. As carriers add customers to the network, their universal service costs do not necessarily rise. In fact, their cost per minute is likely to go down with more customers and more usage. NECA supports formula-based cost determinations as suggested by the Panhandle Proposal.²¹ NTCA also supports the Panhandle Proposal concepts, including the use of cost-based algorithms for determining competitive ETC support.²² RICA and MTA are supportive of the Panhandle Proposal's use of tiered support based on the size of the carrier.²³

The Panhandle Proposal fits perfectly in a post-identical support world where wireless ETCs, not subject to the Commission's separations and access rules, would be able to determine their costs on a per minute basis and garner support based on their per minute costs. The Panhandle Proposal is based on the concept that the receipt of high cost universal service comes with an obligation to provide roaming on a non-discriminatory basis to other wireless carriers in their area and their customers. This aspect of the Panhandle Proposal will draw more customers onto the supported network, thus reducing the need for high cost support. The Panhandle Proposal is the perfect replacement for identical support without the risk associated with reverse auctions and, as noted by OCC, is "an appropriate mechanism to curb USF growth."²⁴

²¹ NECA Comments at 25.

²² NTCA Comments at 26 – 27.

²³ RICA Comments at 17 -18 and MTA Comments at 12-14.

²⁴ OCC Comments at 18.

V. Conclusion

For the foregoing reasons and based on the comments filed in this proceeding, RTG requests that the Commission axe its risky reverse auction proposal and instead reform the Fund by mandating that carriers use their own costs, on a permanent basis, to determine high cost support. As the Commission moves forward in reforming universal service, it needs to recognize the vital role that mobile telecommunications play in rural America. Any reform must not discriminate unfairly against mobile communications.

Respectfully submitted,

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By: _____ /s/

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Dated: May 30, 2008

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