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
	)	
Identical Support NPRM (FCC 08-4)	)	Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008)
	)	

REPLY COMMENTS OF THE TEXAS OFFICE OF PUBLIC UTILITY COUNSEL ON THE IDENTICAL SUPPORT RULE

The Texas Office of Public Utility Counsel ("TOPC")[1] respectfully submits these reply comments on the issues regarding the so-called "identical support" rule, pursuant to the Notice of Proposed Rulemaking (*"Identical Support NPRM"*) issued in the above-captioned dockets. The identical support rule awards federal high-cost universal service fund ("USF") support to competitive eligible telecommunications carriers ("CETCs") based on the costs of the incumbent local exchange carrier ("ILEC") in whose territory the CETC seeks support, rather than on the CETC's own costs or on some other basis.

[1] TOPC is a state agency created by the Texas Legislature to represent the interest of residential and small commercial consumers involving telephone and electric utility issues. Public Utilities Regulatory Act, Tex. Gov't Code Ann. §13.001 (Vernon 1998 & Supp. 2005).

At the outset, TOPC applauds the Commission for its May 1, 2008 action to adopt an interim cap on payments to CETCs under the USF to stem the explosive growth of USF while it pursues comprehensive reform of the program. By the Commission's own admission pursuant to the press release pertaining to the interim cap, consumers currently pay more than 11 percent in USF fees on their interstate phone bills, and growth in contributions to the fund is largely attributable to CETCs, who receiving USF support based not on their actual costs, but on the costs of the incumbent provider, even when the CETC's costs of providing service are lower. The FCC further notes that, "Left unchecked, this staggering growth threatens the sustainability of the USF program and forces consumers to pay excessive and ever-increasing contributions to the fund."

Secondly, TOPC concurs with and supports the April 17, 2008 comments filed by the National Association of State Utility Consumer Advocates ("NASUCA") and urges the FCC, as a component of any comprehensive USF reform it ultimately adopts for the purpose of controlling USF fund growth, to include modifications to or a replacement of the identical support rule to require CETCs to demonstrate their own costs in order to receive USF support. To the extent the Commission decides to forego its goals for long-term USF reform, its proposals for basing CETC funding on each individual carrier's actual costs appear to be an adequate "first step" towards controlling the excessive funding that is being received under the existing high-cost rules. However, this “first step” becomes even smaller when it is made without taking into account other comprehensive reform issues, the most significant being the issue of whether the USF should be supporting duplicative networks within high cost areas that are presumably unable to support a single network without support.

TOPC appreciates the opportunity to file these reply comments, and urges the Commission to continue to make strides towards USF reform.

Dated: June 02, 2008

Respectfully submitted,

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