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
	)	

REPLY COMMENTS OF THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

David C. Bergmann
Assistant Consumers' Counsel
Chair, NASUCA Telecommunications Committee
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Phone (614) 466-8574
Fax (614) 466-9475
bergmann@occ.state.oh.us

NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

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I. INTRODUCTION AND SUMMARY

On or about April 17, 2008, more than ninety parties filed comments with the Federal Communications Commission ("FCC" or "Commission") in the above-captioned dockets. The comments concerned three notices of proposed rulemaking ("NPRMs") that the Commission had issued regarding the federal high-cost universal service fund ("USF").[1] Most of the comments addressed all three NPRMs; some parties, like the National Association of State Utility Consumer Advocates ("NASUCA") submitted

[1] FCC 08-4 (rel. January 29, 2008), seeking comment on the Commission's rules governing the amount of high-cost universal service support provided to eligible telecommunications carriers ("ETCs"), including elimination of the "identical support rule" ("*Identical Support NPRM*"); FCC 08-5 (rel. January 29, 2008), seeking comment on whether and how to implement reverse auctions (a form of competitive bidding) as the disbursement mechanism for determining the amount of high-cost universal service support for ETCs serving rural, insular, and high-cost areas ("*Reverse Auctions NPRM*"); FCC 08-22 (rel. January 29, 2008) ("*Comprehensive Reform NPRM*"), seeking comment on the recommendation of the Federal-State Joint Board on Universal Service ("Joint Board") regarding comprehensive reform of high-cost universal service support, as incorporated in the Joint Board's Recommended Decision, FCC 07J-4 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) ("*Comprehensive Reform Recommended Decision*"). The *Comprehensive Reform NPRM* incorporated the two other notices of proposed rulemaking. *Comprehensive Reform NPRM*, ¶ 1. As in NASUCA's initial comments, unless otherwise noted, all citations here are to CC Docket 96-845 or WC Docket 05-337 or both.

separate comments on each of the NPRMs.[2]

In addition, on May 5, 2008 -- two weeks before the original due date for reply comments -- Qwest Communications International, Inc. ("Qwest") filed "a proposal for revising the methodology used to determine high-cost universal service support for 'non-rural' incumbent local exchange carriers…."[3] Similarly, on May 12, 2008 -- a week before the original due date -- Sprint Nextel Corporation ("Sprint Nextel") filed "a new proposal that comprehensively expresses the concerns about the federal universal service high cost support programs.[4] Because the date for the reply comments has been extended,[5] NASUCA is submitting these consolidated reply comments both to the comments and to Qwest's and Sprint Nextel's proposals.

Given the subject matter of this proceeding -- a fund that in 2007 awarded $4.1 billion to telephone companies across the nation,[6] and the massive structural changes to that fund proposed in all three NPRMs -- the number of comments was not surprising.[7]

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[2] In a Public Notice (DA 08-499) released on March 4, 2008, the Commission indicated that it would accept consolidated comments on all three NPRMs.

[3] Qwest gives no indication why its proposal could not have been filed with its comments.

[4] Like Qwest, Sprint Nextel gives no indication why its proposal could not have been filed with its comments.

[5] Order, DA 08-1166 (rel. May 16, 2008).

[6] In 2007, only one jurisdiction (the District of Columbia) received no high-cost funding. All 50 states and five insular territories received "high-cost" funding, in amounts ranging from $35,000 (Rhode Island) to $276 million (Mississippi). Monitoring Report, Table 1.12.

[7] A single set of comments were filed by each of the following, addressing all three NPRMs: AARP; Alaska Telephone Association ("AK TA"); Alltel Communications LLC ("Alltel"); American Library Association ("ALA"); Atlantic Tele-Network, Inc. ("Atlantic"); AT&T Inc. ("AT&T"); Benton Foundation ("Benton"); Cellular South, Inc. ("CSI"); Centennial Communications Corp. ("Centennial"); CenturyTel, Inc. ("CenturyTel"); CoBank, ACB ("CoBank"); Colorado Telecommunications Association, Oregon Telecommunications Association and Washington Independent Telephone Association ("CO/OR/WA TAs"); Comcast Corporation ("Comcast"); Connected Nation, Inc. ("Connected Nation"); Connecticut Department of Public Utility Control ("CT DPUC"); Consumers Union, Consumer Federation and Free Press ("CU, et al."); CTIA - The Wireless Association® ("CTIA"); Embarq; General Communication, Inc. ("GCI"); GVNW Consulting, Inc. ("GVNW"); Independent Telephone & Telecommunications Alliance

What was surprising to NASUCA was the lack of substance in many of the comments, with most speaking only in generalities and failing to provide specific information even when it would be available to the commenter.

Unfortunately, this lack of specificity was often combined with what can charitably be described as naked opportunism, with companies arguing that they deserve more support (or at least no less support), while their competitors deserve no support (or

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("ITTA"); Indiana Utility Regulatory Commission ("IN URC") (late-filed); Information Technology Industry Council ("ITIC"); Iowa Telecommunications Services, Inc. ("IA TSI"); Iowa Utilities Board ("IA UB"); John Staurulakis, Inc. ("JSI"); Missouri Small Telephone Company Group ("MO STG"); Montana Independent Telecommunications Systems ("MT ITS"); Montana Telecommunications Association ("MT TA"); National Cable & Telecommunications Association ("NCTA"); National Exchange Carrier Association, Inc. ("NECA"); National Telecommunications Cooperative Association ("NTCA"); National Tribal Telecommunications Association ("NTTA"); New Jersey Board of Public Utilities ("NJ BPU"); NJ Division of Rate Counsel ("NJ DRC"); New York Public Service Commission ("NY PSC"); Nex-Tech, Inc. ("Nex-Tech"); North Dakota PSC ("ND PSC"); NTCH, Inc. ("NTCH"); Oklahoma Corporation Commission ("OK CC"); Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO"); Panhandle Telecommunications Systems, Inc. ("Panhandle"); PSC of the U.S. Virgin Islands (USVI PSC"); Public Utility Commission of Oregon ("OR PUC"); Qwest; Regulatory Studies Program of the Mercatus Center at George Mason University ("RSP"); Rural Cellular Association and the Alliance of Rural CMRS Carriers ("RCA/ARCC"); Rural Independent Competitive Alliance ("RICA"); Rural Telecommunications Group ("RTG"); Rural Telephone Finance Cooperative ("RTFC"); Satellite Industry Association ("SIA"); Southeast Telephone, Inc. and Momentum Telecom, Inc. ("Southeast/Momentum"); SouthernLINC Wireless ("SouthernLINC"); Sprint Nextel; TCA, Inc. - Telcom Consulting Associates ("TCA"); TDS Telecommunications Corporation ("TDS"); Telecommunications Industry Association ("TIA"); Telephone Association of Maine ("ME TA"); Texas Statewide Telephone Cooperative, Inc. ("TX STCI"); Time Warner Telecom Inc. ("TWTelecom"); T-Mobile USA, Inc. ("T-Mobile"); TracFone Wireless, Inc. ("TracFone"); United States Cellular Corporation ("USCC"); United States Telecom Association ("USTelecom"); USFon, Inc. ("USFon"); Utah Rural Telecom Association ("UT RTA"); Vanu, Inc. ("Vanu"); Verizon and Verizon Wireless ("Verizon"); Western Telecommunications Alliance ("WTA"); Windstream Communications, Inc. ("Windstream"); YourTel America, Inc. ("YourTel"). In addition to NASUCA, separate comments on all three NPRMs were filed by Alexicon Telecommunications Consulting ("Alexicon"); the Kansas Rural Independent Telephone Companies ("KS RITC"); PUC of Ohio ("OH PUC"); the Wyoming Office of Consumer Advocate ("WY OCA"). The California PUC and the People of the State of California ("CA PUC") filed separate comments on the *Reverse Auctions NPRM* and the *Comprehensive Reform NPRM*. The New York PSC ("NY PSC") filed comments on the *Comprehensive Reform NPRM* and combined comments on the *Reverse Auctions NPRM* and the *Identical Support NPRM.* The Iowa Telecommunications Association ("IA TA") and the Rural Iowa Independent Telephone Association ("IA RTA") each filed separate comments on the *Reverse Auctions NPRM* and the *Identical Support NPRM*. Petrocomm License Corporation filed comments only on the *Identical Support NPRM*. The Benton Foundation ("Benton") and the National Consumer Law Center ("NCLC") each filed comments on limited aspects of the *Comprehensive Reform NPRM.* SureWest Broadband ("SureWest") filed comments on the *Comprehensive Reform NPRM* that also implicate the *Identical Support NPRM*. A letter submitted on February 22, 2008 on behalf of MTPCS, LLC d/b/a Chinook Wireless ("Chinook") was resubmitted as comments on all three NPRMs.

at least lesser amounts of support). And very few of those arguing for more support have acknowledged the fundamental purpose of the high-cost USF, which is to ensure that consumers in rural areas have services reasonably comparable to the services available in urban areas, at rates that are reasonably comparable to urban rates, as directed by § 254 of the Telecom Act. None of those who say they need their current support (or need more support) show how the support will, in fact, meet the statutory goal of ensuring reasonably comparable rates, or, indeed, how the current support does not, in fact, meet that goal.

One key issue in the initial comments was the need to prevent the fund from becoming even more unmanageably large than it is now, by capping all or part of the fund. Based on the comments, NASUCA reiterates its position that the first step should be to cap payments to competitive ETCs ("CETCs"). The FCC did so, on May 1, 2008.[8] Following that, until the fundamental issues with the entire high-cost fund are resolved (which it would be unreasonable to expect the FCC to accomplish within one year from the date of the *Comprehensive Reform Recommended Decision*[9]), a cap should be placed on the entire fund. This will protect consumers from paying more than they should, in order to support carriers that do not need support.

These reply comments will first focus on others' responses to the proposals in the *Comprehensive Reform Recommended Decision*, which were to divide the high-cost fund into a Broadband Fund, a Mobility Fund, and a Provider of Last Resort ("POLR") Fund. NASUCA's initial comments supported the concepts, but differed in some details for all

[8] FCC 08-122 (rel. May 1, 2008) ("*CETC Cap Order*").

[9] 47 U.S.C. § 254(a)(2).

three funds.

Then the reply will address comments on the *Identical Support NPRM*. The Commission proposed to base CETCs' support on their own costs, rather than on the costs of the incumbent local exchange company ("ILEC") in whose territory the CETC operates, as occurs under the current mechanism. NASUCA's comments had stressed the fundamental inconsistency between this proposal and the proposals in the *Comprehensive Reform Recommended Decision*, which involve supporting only a single provider in each territory under each of the proposed funds.

The reply comments will then address the comments on the *Reverse Auctions NPRM*. NASUCA's comments had shown the dangers of applying the reverse auction concept to current support levels, based on the numerous rounds of prior comments on the subject. At best, reverse auctions should be trialed in currently unserved areas, beginning with the Broadband Fund and the Mobility Fund. Nothing in the other parties' comments has changed those views.

The discussion of the three NPRMs is followed by two more generic subjects: First, there is the need for (or requirement for) state support programs. But the more overarching subject is the definite need for accountability within the high-cost fund, as addressed in NASUCA's initial comments.[10]

These reply comments conclude with separate sections devoted to discussing the proposals from AT&T, Qwest, Sprint Nextel, NTCA, Windstream and USFon. The AT&T proposals are far-reaching but unsubstantiated, but deserve to be addressed together, rather than be scattered throughout the reply. The Qwest, Sprint Nextel, NTCA,

[10] NASUCA Comments at 61.

Windstream and USFon proposals are also discrete enough -- and wrong-headed enough -- to merit individual reply, although that reply is of necessity slightly duplicative.

Given the number of comments, NASUCA has not attempted to respond to all of the objectionable arguments in all of the comments; failure to address any specific argument should not be deemed acquiescence in that argument.[11] On the other hand, in most respects it proved more fruitful to address those objectionable arguments, rather than merely citing to those who agree with NASUCA.[12]

The review of the other initial comments has not changed NASUCA's positions as expressed in NASUCA's initial comments. Those positions were summarized in the introduction to NASUCA's comments.

II. THE NEED TO CAP THE FUND

One thing needs to be made clear initially: Universal service is the law of the land, and the law requires support for universal service.[13] Therefore, statements such as those of the NJ BPU ("The citizens of Newark, Camden and other New Jersey cities and communities should not have to help pay for service to a rancher in a rural state."[14]) add little to the debate.

Which is not meant to say that customers in low-cost states like New Jersey

[11] It appears that, contrary to NASUCA's previously-expressed fears (see NASUCA Comments at 3, n.12), only a few commenters discussed changing the USF contribution mechanism to a numbers- or connections-based methodology. CenturyTel Comments at 11-12; TDS Comments at 11, n.25; WTA Comments at 28-29. For the many reasons cited by NASUCA (see NASUCA ex partes dated January 22, 2007 and April 6, 2007), those changes are neither necessary nor prudent.

[12] The main exceptions to this are in the citations to those who, like NASUCA, support elimination of the identical support rule and oppose the imposition of reverse auctions in currently-served territories.

[13] 47 U.S.C. § 254.

[14] NJ BPU Comments at 4.

should be required to be endless sources of largesse for rural customers in high-cost states. That is the entire purpose of the current discussion: to determine what level of support is required so that rural customers can have affordable rates that are reasonably comparable to the rates paid in urban areas. Strong suspicions exist that the current level of support for carriers serving rural areas, especially for wireless carriers serving those areas, is far greater than necessary. (As OPASTCO notes, CETCs are responsible for all of the growth in the fund since 2005.[15]) That is the motivation behind the proposals to cap the fund while these issues are being hashed out, which NASUCA strongly endorses.

Notably, CTIA does not itself address, other than by implication, the issue of capping the fund for CETCs, which was so prominently featured in the *Comprehensive Reform Recommended Decision*.[16] Some small wireless carriers do oppose the cap, but their comments demonstrate the fundamental problem with supporting multiple wireless carriers in a single area, for which the cap is an interim answer:

> Most small wireless carriers were late in obtaining ETC status, having sought ETC status only when their large competitors were successful in receiving high cost support, and a clumsy freeze mechanism could freeze out small wireless carriers from receiving support. In other words, the Commission must ensure that capping support at past levels does not entrench support for larger wireless carriers while denying support for smaller wireless carriers new to the ETC arena.[17]

Thus the smaller wireless carriers were providing service without support, and sought support only when their larger competitors did so. This subsidy of competition has led to the current burdens on the fund, and must not continue.

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[15] OPASTCO Comments at 10; see also *CETC Cap Order*, ¶ 6.

[16] It is not unreasonable to suggest that, in this context, implication is an inadequate way of asserting views.

[17] RTG Comments at 13.

The concept of capping the entire fund -- also key to the *Comprehensive Reform Recommended Decision* -- also received much support.[18] Those who oppose such a cap, principally rural carriers, do so essentially because they say there has been no showing that the $4.5 billion (or the $3.2 billion that would be relegated to the POLR Fund under the *Comprehensive Reform Recommended Decision*) is sufficient.[19] TDS threatens that "an artificial cap likely would cause an immediate reduction in infrastructure build-out."[20]

Yet as these carriers have consistently argued, high-cost support for ILECs has remained overall flat (or even slightly declined) over the past few years.[21] Indeed, TDS argues that a cap is unnecessary because "this particular part of the Fund is simply not growing to any significant extent…."[22] But under those circumstances, a cap can do no harm.[23] Indeed, as TDS acknowledges, the current level of support

> has encouraged prudent investment in rural infrastructure and has allowed rural ILECs to remain viable COLRs. It has also enabled many rural ILECs to make broadband services available to a large majority of their customers.[24]

In particular, the requests to remove the current caps on pieces of the high-cost fund are unnecessary.[25]

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[18] See, e.g., NCTA Comments at 4, 6; Comcast Comments at 3; NJ BPU Comments at 4; CA PUC Comments at 2.

[19] See, e.g., UT RTA Comments at 4; TDS Comments at 8; JSI Comments at 6.

[20] TDS Comments at 8.

[21] See, e.g., OPASTCO Comments at 10.

[22] TDS Comments at 9.

[23] ITTA argues that the current caps on certain of the parts of the Fund "cause unintended consequences." ITTA Comments at 19. ITTA does not cite any specific carrier that suffered from those consequences and indeed does not identify the consequences other than loss of support.

[24] TDS Comments at ii.

[25] See, e.g., OPASTCO Comments at 23-26.

NASUCA would tend to agree, however, that there has been no showing that the current level of support is sufficient. But that does not mean that current support is **insufficient:** It appears that current funding is adequate for its purposes, and may, in fact, be more than sufficient to allow rural rates to be affordable and to be reasonably comparable to urban rates. In light of the fact that the Commission has no accepted gauge for what makes rural rates affordable or reasonably comparable, for either rural carriers or for non-rural carriers, it makes sense to cap the fund while this is sorted out.

ITTA opposes a cap because it would "eviscerate rate-of-return regulation by failing to assure carriers their authorized rate of return"[26] and warns that "sufficient rates of return are necessary to ensure the participation of entities in a market."[27] The responsibility of the USF is not to ensure an adequate return for carriers; that is the responsibility of the carriers' total range of revenues. As the Fifth Circuit Court of Appeals stated in *Alenco*,

> The Act does *not* guarantee all local telephone service providers a sufficient return on investment; quite to the contrary, it is intended to introduce competition into the market. Competition necessarily brings the risk that some telephone service providers will be unable to compete. The Act only promises universal service, and that is a goal that requires sufficient funding of *customers,* not *providers.* So long as there is sufficient and competitively-neutral funding to enable all customers to receive basic telecommunications services, the FCC has satisfied the Act and is not further required to ensure sufficient funding of every local telephone provider as well.[28]

The idea that the mere act of explicitly capping a fund that is already effectively capped will "eviscerate" rate-of-return regulation would make rate-of-return out to be a tender

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[26] ITTA Comments at 18.

[27] Id. at 21.

[28] *Alenco v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000) (emphasis in original).

creature indeed.

Another species of concern is that expressed by UT RTA, which asserts that the "cap applies only to the total fund, so there is nothing to prevent one of the other two funds from raiding the POLR Fund."[29] The Joint Board did recommend that the piece parts of the POLR Fund also be capped,[30] which does imply that the POLR Fund could decrease. To the extent that some portion of the POLR Fund is found not to be needed, it would be appropriate to use those dollars if they are needed in the Mobility Fund or the Broadband Fund.

Among the other proposals that could be characterized as "semi-cap" proposals are those that recommend limiting funding to one line per household (or one line of each type per household).[31] NASUCA has long supported a policy of supporting only one line per household.[32] But in late 2004, Congress passed, as one provision in a voluminous revenue bill, a provision that forbade the FCC from implementing a rulemaking that would limit support to a single line per customer. This provision has continued year-by-year, most recently in a continuing spending bill signed in December 2007.[33] By approving this provision as it did, Congress was clearly not making a final and open determination on this issue, but any FCC action in this regard would likely be problematic.

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[29] UT RTA Comments at 4; see also AK TA at 11.

[30] *Comprehensive Reform Recommended Decision*, ¶ 32.

[31] See, e.g., USTelecom Comments at 14-15, Qwest Comments at 4 (support only one wireless line per household); NCTA Comments at 5, 13-14 (support only two lines per household); NJ BPU Comments at 10 (support only primary lines); NY DPS Comments at 4 (support primary connection); GCI Comments at 5 (support only one CETC line per household).

[32] See, e.g., NASUCA Comments (May 31, 2007) at 25.

[33] Consolidated Appropriations Act of 2008 (Pub. Law No. 110-161), enacted December 26, 2007.

III. THE COMPREHENSIVE REFORM RECOMMENDED DECISION

A primary area of concern is raised by the commenters who essentially reject the idea of POLR support because it represents support for "obsolete" technology.[34] Similarly, CTIA asserts that "[v]oice … has become merely one application that can be offered over broadband and mobile networks."[35] There is nothing "mere" about it; **voice is still the most important application traversing the public switched network and the wireless network**.[36]

Looking at voice as obsolete -- like a buggy whip -- ignores the fact that voice service still has a 94.9% penetration among U.S. households.[37] (Lots of buggies out there!) And by contrast to the 97.6 million residential wireline access lines,[38] there are still only 66 million residential high-speed lines,[39] many of which also carry voice. These voice consumers should not and cannot be abandoned by the USF. Which is not to say that the Internet is not a wonderful thing, and likely is the future of communications. But preparing for the future cannot involve ignoring the present, or simplistically declaring it "obsolete." Thus extending universal service support to broadband "while phasing out support for analog service,"[40] is the wrong way to go. Far better, as noted in NASUCA's initial comments and further below, to fund expansion of broadband service through

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[34] USFon Comments at 2; ITIC Comments at [5]; Benton Comments at 36; ALLTEL Comments at 21.

[35] CTIA Comments at ii; see also CU, et al. at 3; AT&T at 4.

[36] See WY OCA Comments at 10.

[37] Telephone Subscribership Report.

[38] Wireline Competition Bureau, Industry Analysis and Technology Division, "Local Telephone Competition: Status as of June 30, 2007" (March 2008), Table 2.

[39] Wireline Competition Bureau, Industry Analysis and Technology Division, "High Speed Services for Internet Access: Status as of June 30, 2007" (March 2008), Table 3.

[40] Benton Comments at 3.

assessments on broadband service itself,[41] while continuing support for voice.

In addition, abandoning support for voice would require a finding that voice no longer meets the criteria in 47 U.S.C. § 254(c)(1) for defining a supported service. Although broadband and mobility now meet those criteria,[42] voice still meets them as well.[43]

Yet even on the voice front, there is considerable difference of opinion on the correct strategy. Sprint Nextel states, "Meaningful reform should rely on the presence of multiple choices for consumers to reduce subsidies."[44] But choices of what? It should be clear that the functional differences among wireline,[45] wireless[46] and VoIP services[47] mean that the services are better characterized as complements, rather than substitutes, as discussed in NASUCA's initial comments.[48] Yet only in a few locations are there choices for wireline service; in most locations customers do have a choice of wireless carriers[49]; and pretty much anywhere customers have broadband service, they have multiple choices of VoIP providers. This implies that this intermodal complementarity does not require

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[41] See NASUCA Comments at 19-20.

[42] *Comprehensive Reform Recommended Decision*, ¶¶ 56, 63.

[43] AARP proposes an integrated POLR Fund and Broadband Expansion Fund. AARP Comments at 22-23. Given the focus of the former on areas currently being served and the focus of the Broadband Fund on unserved areas, and the likely different responsibilities for each Fund, it does not appear wise to attempt to combine them in this fashion.

[44] Sprint Nextel Comments at 5.

[45] For instance, only traditional wireline service continues to function when the electricity supply is cut off.

[46] For instance, only wireless service is truly mobile.

[47] For instance, only VoIP depends on broadband.

[48] NASUCA Comments at 13; see also ITTA Comments at 22-23; WTA Comments at iii.

[49] Including in Mississippi and other areas, where consumers have a choice of multiple (supported) wireless carriers, most of which receive federal USF support. See ITTA Comments at 34, citing the Criterion study.

identical support mechanisms.

T-Mobile opposes the change to three funds that focus separately on wireline, wireless and broadband, citing *Alenco*:

> Relying on the directive in Section 214(e) of the Communications Act ("the Act") that "all 'eligible telecommunications carriers . . . shall be eligible to receive universal service support,'" the U.S. Court of Appeals for the Fifth Circuit held in *Alenco* that the principle that the universal service program "*must treat all market participants equally* . . . . *is made necessary* not only by the economic realities of competitive markets but also *by statute*."[50]

T-Mobile is correct, as far as the idea goes, but misses the crucial point that wireline and wireless (and broadband) are different markets and thus can be treated differently.

In the end, the issue boils down to the errors in Sprint Nextel's statement that "[t]o the extent ILECs are able to price their services at cost, they can diminish their reliance on universal service support, while market mechanisms will identify areas where support remains necessary."[51] It is only where, in the absence of support, services would be priced so as to be unaffordable or not reasonably comparable, that support is necessary; and the "market mechanisms" (one presumes them to be competitive choices) would dictate support only by their absence. As Comcast states, "[T]he Commission should limit the provision of high cost support to those areas where the marketplace demonstrably will not ensure that residential customers have access to reasonably priced voice services."[52] According to § 254, of course, "reasonably-priced" must also encompass affordability and reasonable comparability.

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[50] T-Mobile Comments at 4 , quoting *Alenco*, 201 F.3d at 616 (emphasis supplied by T-Mobile).

[51] Sprint Nextel Comments at 5.

[52] Comcast Comments at 2.

A. THE BROADBAND FUND

USTelecom argues that there should be no separate broadband fund, while "creative solutions" to ensure universal availability of broadband service are explored.[53] NASUCA submits that the Joint Board's proposal for the Broadband Fund in the *Comprehensive Reform Recommended Decision* is just such a creative solution.[54]

In particular, USTelecom notes that broadband funding could strain the USF.[55] NASUCA agrees, but this is dependent on the level of funding allocated to broadband. The strain would also be eased by the proposals to use the current high-cost funding that implicitly goes to broadband service.[56] It would also be eased -- if not eliminated -- by adopting NASUCA's proposal that funding for broadband service come **from** broadband service.[57]

At least initially, it appears that AT&T would address the funding issue by eliminating POLR funding and having only broadband and mobility funds, with the mobility fund focusing on advanced service.[58] Similarly, CTIA says that the goal should be a dual-mode Third Generation mobile wireless broadband network.[59] The possibility

[53] USTelecom Comments at 32-37.

[54] Especially if the experience-based advice of Connected Nation is taken. See Connected Nation Comments at 21-30.

[55] USTelecom Comments at 33-34.

[56] See Qwest July 7, 2007 ex parte, proposing to fund broadband from the elimination of the identical support rule.

[57] NASUCA Comments at 19-20; see also AARP Comments at 30-31; CA PUC Comments at 8-9; NCLC Comments at 5; NECA Comments at 34; NTCA Comments at 9-12; RTG Comments at 13-14.

[58] AT&T Comments at 3. Only later in AT&T's comments does the complexity of its proposal become apparent, as discussed in Section VIII. below.

[59] CTIA Comments at 28-29.

of strain is evident in CTIA's proposal, which it estimates will cost a mere $22 billion.[60] This despite CTIA's statement that the universal service system should "minimize costs."[61]

CTIA's estimate appears consistent with (or, at least, on the same order of magnitude as) Windstream's estimates for its wireline network.[62] Given these enormous costs, either we can do only a little, or we need to find another source for the funding, such as NASUCA's proposal to assess broadband service.[63]

Benton asserts, based on NECA data, that a $300 million fund would be woefully insufficient, and that a right-sized fund would require $3 billion a year.[64] That would require a 10% surcharge on total broadband revenues[65] and certainly should not be a burden placed on consumers of voice services -- whether wireline or mobile.[66]

The RSP asserts that there should be no assessment on broadband because this would "significantly reduce broadband subscribership," based on estimates of the elasticity of demand for broadband service.[67] Quite apart from the fundamental flaws of RSP's elasticity estimates -- such as the fact that, contrary to the thrust of RSP's

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[60] Id. at 29.

[61] Id. at 1.

[62] Windstream Comments at 12-15.

[63] As noted in NASUCA's comments, one source estimated that U.S. broadband revenue for 2007 totaled $31.4 billion. See http://www.plunkettresearch.com/Telecommunications/TelecommunicationsStatistics/tabid/96/Default.aspx (accessed March 20, 2008).

[64] Benton Comments at 28; see also NJ DRC at 31-34.

[65] See footnote 61.

[66] See AARP Comments at 31 (assuming an assessment of $1 per month on broadband connection). Consistent with NASUCA's prior positions, a connections-based (rather than a revenues-based) assessment would be counterproductive.

[67] RSP Comments at 14.

arguments, there has been no showing that increased USF assessments negatively impacted wireline or VoIP subscribership, or long distance or wireless subscribership or usage[68] -- there is the issue of equity. As noted above, if it makes no sense to assess broadband to support deployment of broadband service, it makes even less sense to assess voice and mobile service to pay for broadband deployment.

Southeast/Momentum seek assurance that the Broadband Fund will be competitively neutral.[69] NASUCA agrees that this should be a goal. The focus on unserved areas should make such an approach easier, as should the use of reverse auctions for those areas, as proposed by NASUCA among others.[70] But the functional differences between wireline broadband and wireless broadband means that the focus of the Fund on the former, as proposed by NASUCA, would not be a competitive issue.[71]

Comcast argues, consistent with much industry argument:

> Under the Joint Board proposal, cable operators offering VoIP services apparently would be required to contribute to the high-cost fund, but their cable modem broadband networks and services would be ineligible for support. In other words, providers of cable modem services would be forced to fund their broadband competitors while being barred from competing for the support themselves.[72]

This argument -- that if carriers (or rather, their customers) contribute to the fund, they

[68] See id. at 11-13. If the argument is that subscribership or usage did not increase as much as it would have in the absence of USF assessment, the response is that such speculation cannot be the basis for determination of real-world policy.

[69] Southeast/Momentum Comments at 13.

[70] See NASUCA Comments on Reverse Auctions at 2. NASUCA supports NCLC's proposal that average income levels also be a factor in determining "unserved" and "underserved" areas, for both the Broadband Fund and the Mobility Fund. NCLC Comments at 3.

[71] See NASUCA Comments at 16-17.

[72] Comcast Comments at 15; see also T-Mobile Comments at 6.

must be able to collect from the fund -- ignores the fundamental nature of a support fund, where those with low costs support those with high costs. For example, under the current system, all VoIP providers contribute, regardless of who owns them, but cannot collect. It is also unclear how, under the Joint Board proposal, cable modem providers would in fact be ineligible for support.

As a means of constraining the costs of broadband expansion, and also to ensure that participants in the Fund are committed to providing the service, AARP recommends that the FCC require matching funds from funded entities.[73] NASUCA agrees in principle, but much the same result could be accomplished by policies that generally precluded funding 100% of the cost of a project.

In the end, however, there is one problem with the Broadband Fund that will have to be resolved, a problem created by the Commission itself. As WY OCA points out,

> Section 254(c) appears to state that universal service relates to <u>*telecommunications services*</u>. The definitions found at Section 3 of the 1996 Act distinguish between *telecommunications* and *telecommunications services*. In a Report and Order issued August 5, 2005, the Commission found that broadband internet was either an information service or found it to be telecommunications, rather than a telecommunications service.[74]

WY OCA asks "whether this disqualifies broadband internet from then being a supported telecommunications service under Section 254(c) of the 1996 Act."[75] NASUCA agrees that the issue needs to be resolved.

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[73] AARP Comments at 41. AARP also recommends that state matching funds be required. Id. at 40. As with other aspects of state funding, it does not appear appropriate that this be an absolute requirement. See NASUCA Comments at 60-61. States should at the very least be able to plead financial inability to provide such support.

[74] WY OCA Comments at 10 (emphasis in original; footnote omitted); see also SouthernLINC Comments at 30-31; RICA Comments at 9.

[75] WY OCA Comments at 10.

B. The Mobility Fund

NASUCA's response to the comments relating to the proposed Mobility Fund is submitted to the Commission in light of the most recent events that have added significantly more direction to the future of the USF. The Commission's recent decision to cap the portion of the high-cost fund that goes to CETCs at the March 2008 level narrows the options that are important to consider.[76]

The FCC has determined that wireless carrier funding through the universal service fund should be capped until such time as reform measures are adopted.[77] The FCC has also determined that wireless service is not a substitute for wireline service,[78] which dilutes the basis and rationale for continued support of wireless carriers under the existing funding mechanisms. The Joint Board's recommendation to include mobility services provided by wireless companies within the definition of supported services, but under a separate fund, adequately addresses the needs of mobility services for support. The extensive discussion contained in the *Comprehensive Reform Recommended Decision* regarding the legal justification for such a determination is a part of the record.[79] The FCC is obligated to address the proposals for a Mobility Fund in the *Comprehensive Reform Recommended Decision* by November 2008, based on the record in this docket.[80]

In the comments, those who join NASUCA in supporting a transition to a Mobility Fund for wireless carrier funding include, among others, AT&T, CTIA,

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[76] See *CETC Cap Order*.

[77] Id., ¶ 1.

[78] Id., ¶ 20. This answers ALLTEL's assertion that substitute services competing in the same market should receive equal funding. ALLTEL Comments at 9-11.

[79] *Comprehensive Reform Recommended Decision*, ¶¶ 63-67.

[80] 47 U.S.C. § 254(a)(2).

ALLTEL, CA PUC, Century Tel, CoBank, OPASTCO, RTA, MO STG, OH PUC, NJ DRC, NCLC, Qwest, NCTA, GVNW, and ITTA. While the individual proposals for implementing the Mobility Fund differ, the FCC should first determine that mobility should be classified as a supported service under the criteria established in the 1996 Act and that a separate Mobility Fund should be established to achieve universal service mobility goals that will differ from Broadband goals or legacy network goals. The existing record will support such a decision. The existing record also calls into question whether wireless carriers should be receiving support as CETCs under the existing mechanism.

NASUCA agrees with the FCC's conclusion that wireless mobility has not proven to be a substitute for wireline service, contrary to the anticipation when the identical support rule was first adopted that the rule would enhance competition. The Commission again reiterated its position that consumers do not currently view wireless service as a substitute for wireline service in its May 1, 2008 order adopting an emergency cap on the amount of high-cost support that competitive ETCs may receive.[81] NASUCA also agrees with GVNW that "[t]here are public policy benefits to creating three separate universal service funds, not the least of which is that wireline and wireless are complementary, and not substitutable services."[82]

Recently, in a proceeding involving the petitions of Verizon for forbearance from dominant carrier regulation in the Boston, New York, Philadelphia, Pittsburg, Providence and Virginia Beach Metropolitan Statistical Areas, a paper by Dr. Kent W. Mikkelsen

[81] *CETC Cap Order*, ¶¶ 19-21.

[82] GVNW Comments at 30.

was filed challenging the assumptions by Verizon that wireless services are part of the relevant market for wireline services.[83] Specifically, Dr. Mikkelsen stated, "In evaluating petitions for forbearance … the Commission appears to have little basis for determining that mobile wireless services are now part of the relevant market for wireline services."[84]

If consumers do not universally view wireless services as an adequate substitute for wireline service, then it is questionable whether the existing $1.3 billion wireless support is justified, in view of the fact that ETC status carries with it the potential obligation to provide carrier of last resort responsibilities. The Joint Board, however, sidestepped the issue of wireless funding under the existing mechanism by proposing a transition from the existing mechanism to the Mobility Fund.

NASUCA agrees that mobility, as a separate telecommunications service, presently satisfies the requirements of the Telecommunications Act for USF support, based on its own unique capabilities and the evolution of wireless services as a complement to wireline service, not as a substitute for wireline service. GVNW correctly takes note of the interdependence that has developed between wireless and wireline: "Without the underlying wireline network, wireless networks could not exist in their current form. Attention must be placed on ensuring these mechanisms are capable of maintaining the fiscal health of that wireline network."[85]

The FCC should either adopt a mobility fund mechanism based on the existing

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[83] *In the Matter of Petitions of the Verizon Telephone Companies for Forbearance Pursuant to 47 U.S.C. § 160(c) in the Boston, New York, Philadelphia, Pittsburg, Providence and Virginia Beach Metropolitan Statistical Areas*, WC Docket No. 07-97, K. Mikkelsen, "Mobile Wireless Services to 'Cut the Cord' Households in FCC Analysis of Wireline Competition," (dated April 21, 2008, filed April 22, 2008).

[84] Id. at 11.

[85] GVNW Comments at 24.

record, or set the reform process in motion by continuing to actively seek out specific proposals for future implementation. Although the comments include significant proposals for the Mobility Fund, NASUCA does not believe the record is sufficient to adopt a specific and complete Mobility Fund implementation plan. NASUCA has proposed the adoption of a Mobility Fund jump-start plan that would immediately establish mobility trials in every state for the purpose of developing procedures that could be adopted in a Mobility Fund mechanism. The FCC could adopt that proposal based on the existing record.

Recognizing that an interim CETC cap is now in place, the FCC could also set in motion near-term activities that would fill out the record and encourage consensus-building for adopting and achieving a goal of universal mobility service in this country. It should be recalled that the Rural Task Force provided significant record support for key decisions made by the FCC for reform of the rural carrier high-cost fund in 2001.[86] A Mobility Task Force could, hopefully, achieve the goals of putting stakeholders together to produce proposals for long range goals for mobility services coupled with short term implementation strategies. From a pure logistical standpoint, developing the procedures to implement a new Mobility Fund is a daunting task for the FCC that would be made much simpler if the various stakeholders were to reach a mutual understanding. Setting aside the rhetoric of the comments received in this docket, NASUCA feels comfortable that such a track would serve the nation's telecommunications customers well. The best structure for such an effort would be to refer that project to the Joint Board, in order to

[86] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourteenth Report and Order and Twenty-Second Order on Reconsideration, *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Report and Order, 16 FCC Rcd 11244 (2001), ¶¶ 6-9.

encourage balanced participation and facilitate necessary public input.

The FCC could implement those steps based on the current record. If there is concern about a final determination that the definition of supported services should be modified in order to implement a Mobility Fund, the FCC could make a conditional decision based on receipt of a satisfactory plan from the Joint Board. Thus, the FCC can move forward now to initiate reform without committing itself to the possibility of unintended consequences.

C. THE POLR FUND

1. ELIMINATING THE POLR FUND

As discussed in the introductory material to Section III. above, there are commenters who would eliminate the POLR Fund, because POLR service is purportedly obsolete. AT&T states:

> [The] tendency toward a business model built on broadband connectivity as the core service is in conflict with existing universal service mechanisms. Those mechanisms, including COLR requirements, … focus on the offering of a particular service (POTS telephony) in a particular way (flat-rated "local" plus usage-sensitive "access/long distance"). As broadband penetration rises, these legacy universal service mechanisms and the POTS business model upon which they are based become increasingly … unsustainable. … Demand for, and thus the policy rationale to require or support, standalone, fixed-location voice service will also decline to a very low level.[87]

Yet as also discussed above, there remains a very significant need for POLR service. The UT RTA correctly asserts, from its perspective, that "[t]here continues to be significant value to Utah and the country to add and retain as many customers as possible on the public switched telephone network…."[88] At the point that AT&T's prophecy comes true

[87] AT&T Comments at 7.

[88] UT RTA Comments at 2.

(if it ever does), then we may be able to eliminate the POLR Fund. For the meantime, such discussion is especially premature.

2. CHANGING THE POLR FUND

As expected, one of the loudest themes in the telephone companies' comments is their supposed need for additional support. For example, Embarq says that

> (at a minimum) a significant portion of the support dollars no longer distributed as a result of 1) eliminating identical support, along with 2) eliminating access replacement support for wireless carriers, and 3) eliminating support for multiple handsets, should be re-directed to correct the inadequate funding of currently-supported services caused by study area averaging.[89]

Likewise, Embarq states that "[t]he existing legacy POLR programs have, in many cases, proved insufficient to adequately fund the current list of supported services."[90] **Yet Embarq, like all of the other carriers that sound this theme, once again provides no data (much less comprehensive data) on any wire centers, particularly its wire centers, that allegedly suffer from this lack of support, or how the suffering occurs.** Embarq has shown how its costs outside the town centers are higher[91] (no surprise there), **but has not shown how the current levels of support are insufficient to permit rural rates -- within as well as outside the town centers -- to be reasonably comparable to urban rates**.[92]

Indeed, where non-rural carriers receive high-cost support, their state commissions are required to certify that the companies' rural rates are reasonably

[89] Embarq Comments at 3-4.; see also AK TA Comments at 12, ITTA Comments at 14-17; see also Section X., below, discussing Windstream's position.

[90] Embarq Comments at 25-26.

[91] See id. at 14.

[92] Even for a "rural" carrier like Embarq FL with its 1.7 million access lines.

comparable to urban rates.[93] As NASUCA has proposed, the same requirement should be adopted for rural carriers.[94] Only when a state does not (or cannot) make this certification, should the issue of inadequate support arise.

Of course, the subject of allegedly inadequate support is not new. At this point it seems necessary to quote at length from NASUCA's comments to the Joint Board in May 2007, responding to references to the presentations of Embarq's Dr. Staihr at the Joint Board's February 20, 2007 *en banc* hearing.[95] The Joint Board referred to Dr. Staihr's conclusion that support should be calculated at the sub-wire center level.[96] Based on a review of Dr. Staihr's slide presentation -- and a listen to the recording of the *en banc* hearing -- a few things became clear, as NASUCA stated earlier:

> First, the key reason for Dr. Staihr's conclusion is his combined statement that:
>
> - Competition prevents low-cost wire centers from subsidizing high-cost wire centers;
> - Competition prevents low-cost portions of a wire center from subsidizing high-cost portions of the same wire centers.
>
> These premises are presented as "facts." It is, therefore, appropriate for those "facts" to be subject to questions.
>
> - To what extent is there real competition in low-cost wire centers that is not present in high-cost wire centers?
> - To what extent is there real competition in low-cost portions of "high-cost" wire centers that is not present in high-cost portions of those wire centers?

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[93] 47 C.F.R. § 54.316.

[94] NASUCA Comments at 29.

[95] FCC 07J-2, ¶ 5.

[96] Presentation of Brian Staihr, Embarq, available at http://www.fcc.gov/wcb/tapd/universal_service/JointBoard/welcome.html ("Staihr Presentation") at 14.

- Is there any record of ILECs having reduced residential or small business rates in low-cost areas due to competition?

NASUCA submits that there has not been any kind of showing that the "prevention" of "cross-subsidization" referred to by Dr. Staihr is a "fact."[97]

Further, NASUCA noted that

> [i]f such were, in fact, the case, for [Embarq] at least -- and for all other ILECs, presuming that the phenomena to which Dr. Staihr refers are not limited to Embarq -- one would expect there to be moves to increase rates in the high-cost wire centers and portions of wire centers in, for example, Florida, Indiana, Kansas, Minnesota, Ohio and Texas (the states noted by Dr. Staihr). One would also expect the telephone companies to seek to increase rates in the higher-cost portions of their rate centers.
>
> That does not appear to be happening. **It may simply be that it is easier for Embarq to attempt to convince a national Joint Board and the FCC to assist it with universal service funds than it is for Embarq to seek rate increases in these states for these wire centers and portions of wire centers**. But that turns the universal service support issue basically backwards.[98]

The need for specific data -- rather than unsupported generalizations -- should be crystal clear, as also shown by NASUCA:

> Looking at Ohio, where Dr. Staihr complains about the fact that the Reinersville "high-cost" wire center receives no support despite its high modeled cost, a few facts put the lack of support into context: First, in Ohio, in 2002 Embarq (then known as Sprint) voluntarily "opted-in" to a regulatory plan that capped basic service rates throughout its territory, giving total pricing flexibility for most other services. Thus Embarq does not appear to be moving toward removing the supposedly unsustainable "cross-subsidy" on the state level. There is, therefore, no reason why the federal USF should pick up the slack.
>
> Second, there appears to be another reason why Embarq is not doing anything with its rates on the state level, in Ohio at least: According to its annual report to the Public Utilities Commission of Ohio, in 2006 Embarq's earned return on equity in Ohio was …

[97] NASUCA May 31, 2007 Comments at 16, citing Staihr Presentation at 14, 5.

[98] NASUCA May 31, 2007 Comments at 17 (emphasis added).

> **41.55%**![99] (Its fifteen-year average return on equity was 25.95%.[100]) Despite this, … Embarq receives $500,000 a year in federal high-cost support in Ohio.
>
> The bottom line is that the premises on which Embarq's proposal are based are fundamentally flawed, making the conclusion equally flawed, and the disaggregation effort based on those premises and that conclusion is largely unnecessary. Although … the capability to disaggregate exists because of the improvements in cost modeling, that does not make it a useful endeavor.[101]

NASUCA noted "that the averaging of support that Dr. Staihr says is not sustainable is one of the important constraints on the size of the fund."[102] And we quoted CTIA:

> This averaging has the effect of keeping the size of the federal fund, currently estimated at $291 million for 2005, low. If funding were to change (without a move to auctions, or without any other change in revenue benchmarks or other offsetting adjustments) to carrier funding (rather than an aggregation of carrier wire centers within the state), we estimate the non-rural funding for ILECs would nearly double. If, instead, funding were to change to the wire center (i.e., all high-cost wire centers would receive support -- even those located on [sic] lower average cost states), we estimate the non-rural funding for ILECs would grow to over $2 billion, a nearly seven-fold increase to the current fund size.[103]

Neither this argument, **nor the lack of support for the argument**, are or were unique to Embarq.

As another example, USTelecom states that "[t]he implicit support inherent in

[99] For 2007, the number was **42.58%**.

[100] For the five years including 2007, the number was 35.19%.

[101] Id. at 17-18 (citations omitted, emphasis in original).

[102] Id. at 18.

[103] CTIA Reply Comments, Appendix (Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions, by James Stegeman, Dr. Steve Parsons, Robert Frieden, and Mike Wilson) (filed Nov. 8, 2006) at 16.

study area averaging is no longer sustainable and should be promptly addressed."[104] Again, this statement is made without supporting data, even selective data, much less comprehensive data, showing either the extent of the lost implicit support, or the possible rate impact that demands additional explicit support so that rates will remain reasonably comparable.[105]

In addition to the lack of a demonstration of moves to increase rates in rural areas, or in the most rural parts of rural wire centers/exchanges, NJ DRC notes the absence of a corresponding phenomenon: "If such competition truly threatened ILECs, one would expect ILECs to voluntarily *lower* rates in urban areas to meet the competition."[106] There is no sign that that has happened.

NJ DRC proposes that the non-rural high-cost fund be sunset.[107] Given the current level of non-rural carrier rates, which appear to be reasonably comparable by any standard,[108] that is an idea that could be considered. Then it could be seen where, in the absence of support, rural rates were truly at risk, and federal support could be targeted to those areas.[109]

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[104] US Telecom Comments at 31. USTelecom cites (at 30) a July 12, 2007 ex parte filed by CenturyTel, Consolidated, Embarq and Windstream, which in turn included the Ballhoff & Rowe study cited by NASUCA. NASUCA Comments at 52, n.171. As also noted by NASUCA, the study raises a number of questions that have not yet been answered. Id., n.172.

[105] See OR PUC Comments at 4. n.4.

[106] NJ DRC Comments at 43 (emphasis in original). "Rate Counsel is not aware of ILECs lowering local exchange rates as a result of receiving high cost support." Id. In a few states (such as Maine, West Virginia and Wyoming), some high-cost funding goes directly to customers as a credit on their bills. It appears that this is the exception rather than the rule.

[107] Id. at 44.

[108] See NASUCA Comments at 31-32 and Appendix 2.

[109] This was the essential predicate for NASUCA's proposal on the non-rural high-cost fund. See NASUCA NRHC Comments at 65-88.

The IN URC asserts that "[s]upport to high cost rural areas should not be determined by the characteristics of the incumbent serving a particular area."[110] To the contrary, the characteristics (size, costs, etc.) of the incumbent are the precise factors that should be used to determine support. If the current distinctions have created a "disincentive for some ILECs to serve high-cost areas and invest in advanced technologies including broadband,"[111] one must ask whether the only solution is to provide additional support to those companies. Those ILECs -- the largest carriers in the nation -- have been promising to deploy advanced services for decades. One suspects that lack of high-cost support (in such "high-cost" areas as Indiana) is only a small part of the problem.[112]

For its part, NCTA says that, with regard to the high-cost funds, "[T]here is a significant concern that they tend to provide far more support, for a far longer time, than is necessary to make it economic for the carrier to serve the supported area."[113] Of course, NCTA's perspective -- as an organization of competitors to the wireline companies, typically receiving no support -- must be considered in evaluating the statement. But the point is, how can we know, without data? The companies that trumpet their need for additional support have totally failed to muster the data on which a reasoned decision could be made.

NASUCA actually agrees with OPASTCO that

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[110] IN URC Comments at 3; see also ND PSC Comments at 6.

[111] IN URC Comments at 3.

[112] WTA provides some likely other candidates for reasons for the lack of investment. WTA Comments at 16-17.

[113] NCTA Comments at 7.

> [a]s it considers reforms that will satisfy both the statutory and Joint Board objectives, the Commission should take stock of those parts of the existing High-Cost program that are already successfully achieving them, in a rational and accountable manner, versus those that are not. It would not serve the public interest to abandon those segments of the program that have a track record of success in the process of reforming what has failed.[114]

We do not agree, however, that it is necessarily correct that "the existing support system for rural ILECs based on their embedded network costs … has been effectively and efficiently achieving the relevant universal service goals in rural service areas, and has held rural ILECs highly accountable for the support they receive."[115] That is why NASUCA proposed improvements to the rural ILEC support mechanisms.[116] Further, in the absence of a census of the rates for rural carriers, it is impossible to determine whether the rural mechanisms have been successful, or indeed, how much support is necessary.

Along those lines, NASUCA also, somewhat unusually, agrees with USTelecom that because "high cost support is intended to result in rates that are both affordable and reasonably comparable to those in urban areas, there is no need to provide support which when combined with other factors results in rates that are significantly below a reasonably comparable and affordable level."[117] As noted above, that was a centerpiece of NASUCA's proposal for non-rural carriers[118]; it could also be adopted for rural carriers. But NASUCA vehemently disagrees with USTelecom's assertion that

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[114] OPASTCO Comments at 4. Notably, OPASTCO does not identify the parts of the existing high-cost system that it believes have not been successful.

[115] Id.

[116] See NASUCA Comments at 36-40.

[117] USTelecom Comments at 29.

[118] NASUCA NRHC Comments at 65-88.

> any limit or condition on federal universal service support must be coupled with the commensurate elimination of rate regulation to enable carriers that lose support to receive that revenue directly from customers.
>
> Otherwise, carriers with regulated rates would be punished by limitations on rates imposed by states….[119]

The ultimate level of local rates is squarely within the ambit of state regulation. This Commission cannot override state regulation, particularly in replacing USF revenues that turned out not to be needed after all.

Although we also disagree with Sprint Nextel on many issues, they also, like NASUCA, note that the issues raised by the Joint Board in paragraphs 20-23 of the *Comprehensive Reform Recommended Decision* -- placing non-rural carriers at par with rural carriers, elimination of the "parent trap" rule, supporting transport costs, and removal of the cap on HCL -- "could result in increases in ILEC support."[120] The Commission should be cautious in its review of all these issues.

3. SUPPORTING DEREGULATED SERVICES

TWTelecom, addressing only non-rural support,[121] makes largely the same argument as NASUCA, that no support should be given to services that have been price-deregulated.[122] Unfortunately, TWTelecom's citation to AT&T's rates in Texas in this context[123] has little relevance, because AT&T's federal high-cost support in Texas

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[119] USTelecom Comments at 29.

[120] Sprint Nextel Comments at 5; see ITTA Comments at 18.

[121] TWTelecom Comments at 1, n.2; see also AARP Comments at 57.

[122] TWT Telecom Comments at 4-6.

[123] Id. at 5, n. 5.

amounted to only $90,000 in Interstate Access Support in 2007.[124] But it is likely that there are other companies in Texas and in other states that do receive substantial high-cost funding but have price-deregulated their rates. (As TWTelecom notes, this deregulation is typically due to the idea that competition will discipline the incumbent's prices.[125] Where competition has arisen without support going to the competitors, it is questionable whether universal service support is needed at all.) Such deregulation is a state decision, and consumers in other states should not be required to provide "supplemental revenue to an incumbent"[126] that will not meet the purposes of Section 254. NASUCA proposes that along with the ILEC and state certification of reasonable comparability proposed in the initial comments, ILECs and states should be required to certify, in seeking support, that prices for the supported services have not been deregulated, or that, despite the deregulation, there is an alternative state mechanism to ensure that rates remain affordable and reasonably comparable.

4. FIXING THE HIGH-COST MODEL

NASUCA's comments noted the many ways in which the high-cost model needs to be corrected and updated.[127] Neither the companies currently subject to the model nor the rural price-cap carriers that would like to (or have the choice to) be subject to the model[128] discuss this need.

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[124] Monitoring Report, Table 3.28, 3.30. This minimal amount cannot have had a substantial impact on AT&T's prices in Texas, and certainly did not keep AT&T Texas rural rates reasonably comparable to urban rates.

[125] TWTelecom Comments at 5; see also NCTA Comments at 8-9.

[126] TWTelecom Comments at 5.

[127] NASUCA Comments at 54-56.

[128] See Section X., below.

On the other hand, competitors that see themselves as being harmed by over-funding of non-rural ILECs did weigh in on the subject. For example, TWTelecom notes that

> [t]he current federal USF Cost Model is no longer reliable because it does not reflect the manner in which costs are incurred or the revenue opportunity available from the networks currently in service. For example, the High Cost Model assumes that carriers deploy and will continue to deploy exclusively circuit-switched networks, but most networks being deployed today are packet-switched. … Similarly, the current model assumes that ILECs construct their distribution networks with fiber feeder cable and copper to the end user premises, but AT&T and Verizon are currently deploying passive optical networks, in Verizon's case with fiber all the way to the home. It makes no sense to rely on a model that estimates the cost to rebuild a circuit-switched network with copper distribution facilities at a time when that basic architecture has been superseded by packet technology and fiber loops.[129]

Likewise,

> the current model estimates the cost to *replace* the existing network. But, the RBOCs have largely recovered their investments in digital local circuit switching through depreciation. … Incumbents do not therefore incur replacement costs for circuit switches. Instead, ILEC costs associated with these networks are generally limited to the costs of keeping such networks in "steady state." … Thus, even if the current model perfectly predicted the cost to replace a network based on circuit switches, that information would not tell the Commission anything about the cost of maintaining even the circuit-switched networks typically in service today.[130]

Similarly, NCTA bolsters NASUCA's concern about funding a multi-use network:[131]

> companies that receive USF support should not be able to use it to pay for facilities or equipment used in the provision of multichannel video service. But that is exactly what happens

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[129] TWTelecom Comments at 9 (citation and footnote omitted).

[130] Id. at 10 (emphasis in orginal; citations and footnote omitted).

[131] See NASUCA Comments at 56.

> under the current rules when a LEC assigns the entire cost of fiber upgrades to subsidized voice service and then uses those facilities to provide video service at unregulated rates. As ILECs increasingly enter the multichannel video market, even in rural areas, this should be an issue of significant concern to the Commission.[132]

Regardless of how, for which companies, or the benchmarks used, the model must be fixed.

IV. THE IDENTICAL SUPPORT RULE SHOULD BE ELIMINATED; THE USF SHOULD NOT SUPPORT MULTIPLE NETWORKS

In these reply comments, NASUCA reiterates its position that the Commission and the Joint Board both erred in their assumptions early on that wireless CETC services would grow to constitute a viable replacement for existing wireline services in high cost areas where universal service funding was required. The failure of wireless service to displace wireline service in a competitive struggle for customers, and the combination of identical support for wireless CETCs, coupled with the FCC's decision to support multiple terminations within the same household, provided a built-in magnet for wireless companies to target expansion in areas where USF funding was available. Wireless success in these areas created the phenomenal growth in high-cost funding that resulted in the current crisis in the USF and the cap on CETC funding recently ordered by the FCC.

Numerous commenters support the elimination of the identical support rule that funds wireless carriers based on wireline carrier costs, including NASUCA, NJ DRC, AARP, NCLC, CT DPUC, OH PUC, NECA, NTCA, OPASTCO, RTA, ITTA, RTG,

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[132] NCTA Comments at 9.

MO STG, Embarq, CenturyTel, Panhandle, NTCH, GVNW, CoBank, and RTFC, among others. And the Commission's recent *CETC Cap Order* adds weight to the reasons for eliminating the identical support rule.[133]

Not surprisingly, those in opposition to eliminating the identical support rule include CTIA, SouthernLINC, Momentum, Cellular South, and the remaining wireless commenters that currently receive or look forward to receiving support based on the incumbent's costs. ALLTEL initially supports the elimination of the identical support rule[134] as well as the concept that funding rules should be modified so that the ETC gaining the customer should win the support and the ETC losing the customer should lose the support.[135] ALLTEL's proposal includes the elimination of the existing high-cost mechanism,[136] to be replaced by two funds, Broadband and Mobility, both of which ALLTEL would presumably benefit from. But ALLTEL then turns around and opposes elimination of the identical support rule and takes the position that wireless service is indeed a substitute for wireline, as long as we have the existing high cost support mechanisms.[137] Mysteriously, ALLTEL comments that "if universal service were restructured to focus on mobility and broadband, then these functionalities could be considered complementary."[138] NASUCA would note that it is the consumer who determines whether a given service is a substitute or a complement, and American

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[133] CETC Cap Order, ¶¶ 15-18.

[134] ALLTEL Comments at 8.

[135] Id. at 5.

[136] Id. at 19.

[137] Id. at 10.

[138] Id. at 11.

consumers have already demonstrated that wireless service is not a substitute for their wireline connections to the public switched network. Taken in its totality, ALLTEL's proposal, similar to other industry comments, would serve to increase ALLTEL's funding at the expense of existing legacy wireline funding.

NASUCA would again point out, however, that it would be virtually meaningless to eliminate the identical support rule in a vacuum, without dealing with the issues that have resulted in the current universal service crisis. The *Identical Support NPRM* fails to adequately deal with the companion problem of identical support for wireless carriers who receive funding for multiple terminations in the same household.

Some of the commenters have emphasized the greater problem associated with the support of multiple providers within the same high cost geographic area, including Centennial and CenturyTel. Centennial states that "it makes no sense to subsidize multiple providers in any given area -- but it also makes no sense to subsidize even **one**, once a provider that requires no outside support is willing to serve."[139] CenturyTel proposes to freeze CETC support, eliminate the identical support rule, eliminate wireless support for multiple handsets, phase out multiple carrier support, deny access replacement support to CETCs, and support one wireless provider in unserved areas through a separate mobility fund.[140] AARP notes that "[t]he importance of the Joint Board's recognition of duplicate support and technology-specific cost justification cannot be over-emphasized."[141] NASUCA shares the concerns expressed by Centennial, Century Tel and AARP regarding the importance of decisive and immediate FCC action to deal

[139] Centennial Comments at 2 (emphasis in original).

[140] CenturyTel Comments at 21-24.

[141] AARP Comments at 19.

with the root problems identified by these commenters that have resulted in the current funding crisis.

While the debates will obviously continue, NASUCA would point to the comprehensive AT&T proposal as a complete reform package that attempts to deal with the total identical support rule problem, as opposed to the piecemeal process that the Commission appears to have adopted in the *Identical Support NPRM*. While NASUCA does not agree with all of the details of the AT&T plan, or other AT&T proposals,[142] NASUCA would endorse the AT&T strategy that all wireless CETC funding provided under the current high-cost mechanisms would be reduced by 20 percent per year over a five year period.[143] Mobility providers would apply for future funding based on their own costs for deploying and maintaining facilities in previously unserved areas (thus eliminating the identical support rule).[144] NASUCA supports this concept with the caveats as noted by AARP: "The FCC should exercise great care when considering the use of the Mobility Fund to support the mobility service-quality improvements" and "use of subsidy dollars to address the poor coverage problem should be minimized."[145] If the FCC decides to eliminate the identical support rule and implement the Mobility Fund proposal, then the issue of funding ongoing mobility operational expenses would hinge on a specific showing of need on the part of a mobility provider.

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[142] See Section VIII., below.

[143] AT&T Comments at 23.

[144] Id. at 3.

[145] AARP Comments at 44.

V. REVERSE AUCTIONS SHOULD BE USED ONLY AS PILOTS FOR UNSERVED AREAS

Reverse auctions for territories already served by ILECS have never been attempted in this country.[146] The issues that would have to be addressed prior to conducting such an experiment are extremely complex and the benefits are speculative at best. If the FCC pursues reverse auctions, they should be limited to pilot projects for areas that are currently unserved by wireline local exchange carriers.

Although several parties support the concept of reverse auctions, in many cases the support is couched in the form of vague statements about the assumed benefits of "properly structured" reverse auctions, with few or no details to support the claimed benefits.[147] There is little agreement about what the proper structure would look like. For example, several parties support the concept of reverse auctions only if the auctions allow multiple winning carriers, arguing that to do otherwise would deprive customers of choice.[148] Other parties, such as Verizon and TracFone, insist that there can be only one winner in an auction.[149]

Parties supporting reverse auctions claim that the key benefit is reliance on market forces to make the high cost funds more efficient, thereby reducing the size of the funds.[150] Such benefits, however, would only materialize under a "properly constructed" auction (as noted, a term subject to much dispute) in which there are sufficient bidders.

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[146] NCTA Comments at 15; Centennial Comments at 6.

[147] CT DPUC Comments at 6-7; NY PSC Comments at 2; T-Mobile Comments at 11-12; OH PUC Comments at 3-4.; RSP Comments at 2.

[148] ALLTEL Comments at 40; NTCH Comments at 2, 10-12; Atlantic Comments at 13.

[149] Verizon Comments at 20-22, TracFone Comments at 4.

[150] NCTA Comments at 15; NJ BPU Comments at 2-3; Atlantic Comments at 12; Verizon Comments at 18.

There is no evidence whatsoever that a reverse auction process in any given rural area in the United States would attract enough bidders to produce the anticipated positive effects. The OH PUC notes that there is a risk in any auction process that there may be very few (and possibly only one) bidders in a given area.[151] Further, in many areas, a meaningful number of bidders by necessity would have to include wireless carriers who are affiliated with wireline carriers. This raises the very real possibility of collusion, which would not only eliminate the potential benefits of an auction but would also provide the opportunity for bidders to game the system and drive costs *upward*.

The NY DPS and the NJ BPU argue that a reverse auction is desirable because it would eliminate the need for the Identical Support Rule.[152] As discussed in NASUCA's initial comments, the FCC can, and should, eliminate the Identical Support Rule without resorting to reverse auctions.

A number of parties are essentially agnostic about reverse auctions, or support them only in limited circumstances, or oppose them outright. Their comments raise significant problems with the use of reverse auctions to set high cost support in areas served by wireline carriers.

AT&T is ambivalent about reverse auctions. AT&T supports the FCC's goals,[153] but believes its own application proposal is superior.[154]

AT&T's comments point out, however, that the reverse auction raises the extremely significant issue of what happens to the obligations to serve of an ILEC that is

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[151] OH PUC Comments at 4.

[152] NY DPS Comments at 2; NJ BPU Comments at 5.

[153] AT&T Comments at 33-34.

[154] Id. at 34.

not selected as the winning bidder in an auction.[155] AT&T is concerned that it is unclear whether the FCC has the authority to relieve a losing ILEC bidder of its COLR obligations, correctly pointing out that states impose COLR obligations on ILECs.[156] Embarq argues that if the FCC is to implement reverse auctions, it would have to preempt both COLR obligations and rate-of-return regulations for ILECs who lost auctions.[157]

This is an extremely important issue that cannot be brushed aside as cavalierly as auction proponents might wish. The FCC lacks the authority to preempt states in these intrastate ratemaking matters, nor should it attempt to do so.

A related issue is that potential bidders may well rely on an existing wireline ILEC's facilities to provide backhaul.[158] This raises two problematic possibilities: 1) An ILEC might unreasonably increase the prices it charges for services such as special access so that it would drive up the costs for potential bidders[159]; or 2) an ILEC may use the auction process as an excuse to argue that unbundling obligations no longer apply. No matter how attractive a reverse auction might appear in theory, in practice it is a much thornier proposition and neither the Commission nor the parties have even begun to scratch the surface of the proposal so as to fully examine the issues that would arise if such a program were implemented for territory served by existing wireline ILECs.

In addition to NASUCA, a large number of parties oppose or otherwise do not support the use of reverse auctions to determine high cost support for areas served by

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[155] Id.

[156] Id.

[157] Embarq Comments at 15, 17-18.

[158] NTCH Comments at 10-12.

[159] See NASUCA Reverse Auction Comments at 12.

wireline carriers.[160] Many of their concerns were summed up by the comments of AK TA:

> [T]he practicality of reverse auctions has matured little in the past decade, as evidenced by the fact that the *Reverse Auction NPRM* raises more questions of implementation than it answers. The use of reverse auctions … would amount to a disruptive experiment of unimaginable proportions that would threaten the viability of the ATA's membership. … Resort to a stark, competitive market mechanism will not fulfill [the] statutory guaranty for the rural POLR community.[161]

As AK TA points out, the *Reverse Auction NPRM* raises more questions than it answers. Significant issues remain related to COLR obligations, the strong potential for collusion, a reserve price and the appropriate geographical unit and a lack of bidders. GVNW and NECA correctly point out that reverse auctions could have a deleterious affect on service quality because the financial incentive for a winning bidder would be to perform the service for a cost lower than reflected in a bid, meaning that reverse auctions have the potential to require greater regulatory oversight.[162]

The handful of comments that contain relatively detailed proposals, such as Verizon's, do not come close to fully addressing these issues. Several parties recommend the Commission test the theory of reverse auctions through pilot programs.[163] NASUCA is opposed to the use of reverse auctions to determine high cost support for territory

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[160] OR PUC Comments at 4; Qwest Comments at 8; CSI Comments at 3-4; Centennial Comments at 6, 11; CenturyTel Comments at 9; CoBank Comments at 3; Embarq Comments at 18; ITTA Comments at 38; IA TA Comments at 1-6; GVNW Comments at 19-25; KS RITC Comments on Reverse Auctions; MO STG Comments at 8-11; MT ITS Comments at 18; MT TA Comments at 22-23; NTTA Comments at 10-11; ND PSC Comments at 4; NECA Comments at 27-28; OPASTCO Comments at 16-21; Panhandle Comments at 1, 8; RCA/ARCC Comments at 66; RICA Comments at 21-23; RTFC Comments at 1-6; RTG Comments at 4-6; TCA Comments at 15-18; TDS Comments at 9-10; ME TA Comments at 3-4; TX STCI Comments at 3-9; TWTelecom Comments at 15-16; UT RTA Comments at 8-9; WTA Comments at 29-38; and WY OCA Comments at 1-8.

[161] AK TA Comments at 13-14

[162] GVNW Comments at 23; NECA Comments at 27-28.

served by existing wireline carriers. If the FCC wishes to further explore the use of reverse auctions to set high cost support, it should do so through some limited pilot programs that focus on currently unserved territory.

VI. STATE PROGRAMS

The need for action on the state level was one of the keys to the *Comprehensive Reform Recommended Decision*. By and large, the commenters approved of the Joint Board's proposals. One exception is NTCA, which argues that "[g]ranting authority to state commissions to determine the amount of federal universal service support a carrier would receive would violate the Act and the Tenth Amendment."[164] It appears that NTCA's argument rests on the proposition that "Section 254(d) of the Act provides the Commission with the authority to decide how much and to whom federal support will be collected and distributed based on **interstate** telecommunications services."[165] Yet § 254(d) actually refers **only** to the contribution mechanism; it is silent on distribution. Indeed, § 254 as a whole is remarkably silent on the means by which federal universal service support is to be distributed. Distribution of support is scarcely the sort of "subdelegation" that the D.C. Circuit found the Commission could not perform.[166] NTCA's argument should be rejected.

On the other hand, AT&T's assertion of "Congress's mandate in section 254 that

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[163] *See, e.g.,* NY PSC at 6; ITTA at 38

[164] NTCA Comments at 46.

[165] Id. at 47 (emphasis in original).

[166] *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 565-568 (D.C. Cir. 2004).

the Commission **and the states** eliminate implicit subsidies"[167] must also be rejected, because *Qwest II* explicitly found that there was no such mandate for the states.[168] *Qwest II* approved the Commission's **inducements** for states to adopt intrastate universal service support mechanisms.[169]

At this point, the real question is whether the Commission should adopt **stronger** inducements, especially in light of the fact that, as NJ BPU states, "4 of the 9 states who were the highest net support recipients in 2006, apparently <u>do not</u> have intrastate universal service funds."[170] NASUCA agrees with the essence of the following statement by AARP:

> [T]he FCC should exercise great care in determining whether to exclude states that cannot contribute matching funds from receiving supplemental federal support. … If some states are unable **or unwilling** to produce matching funds, this does not diminish the pressing need for broadband faced by citizens of those states who reside in unserved or underserved areas. The ability of a state to match the federal grant should not hinder the ability of a state to receive monies from the federal broadband fund.[171]

Yet we would differ with regard to the emphasized language: If a state is "unwilling" to produce matching funds even though it is "able to," consumers in other states should not be required to make up the difference.

RTG asserts that "[c]reating fifty separate high cost support funds throughout the

[167] AT&T Comments at 2 (emphasis added)

[168] *Qwest Communications International, Inc, v. FCC,* 398 F.3d 1222, 1232-1233 (10th Cir. 2005) ("*Qwest II*"). (And, of course, even on the federal side § 254 refers only to implicit "support," not subsidies.

[169] *Qwest II*, 398 F.3d at 1233.

[170] NJ BPU Comments at 12 (emphasis in original).

[171] AARP Comments at 40 (emphasis added).

country is … administratively unnecessary and complicated."[172] It should be recalled that the intention of the Joint Board was to have the states decide where to allocate the Broadband and Mobility Funds, which were to focus on unserved areas, because the states would be more familiar with conditions within their borders than federal officials within the Beltway.[173] State commissions such as CA PSC, CT DPUC and OH PUC support the Joint Board proposal and propose flexibility for developing state matching programs.[174] Some states have already invested resources to map broadband availability.[175] Contrary to RTG's view, states may find it worthwhile to leverage existing knowledge and programs to participate in distribution of Broadband and Mobility Fund support. And, as NASUCA recommended, the allocation of the POLR Fund should remain a federal responsibility.[176]

Finally, the IA UB and USVI PSC bring up an issue that appears not to have been raised by any other commission: Essentially, these commissions question whether the USF responsibilities proposed to be devolved upon the states represent an "unfunded mandate."[177] NASUCA submits that if a state chooses not to bear the burden of deciding how, for example, dollars from the Broadband Fund are to be distributed within the state, it should be able to decline that responsibility and the FCC should take over. One suspects that this would be an uncommon occurrence.

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172 RTG Comments at 12.

173 *Comprehensive Reform Recommended Decision*, ¶¶ 13-14 (broadband), 17-18 (mobility).

174 Cal PSC Comments at 5-6, 8-9; CT DPUC at 6; OH PUC Comments re High Cost USF Reform Comments at 1-3, 9-10; OR PUC at 2-5.

175 Cal PSC Comments at 5-6, 8-9; OH PUC Comments re High Cost USF Reform Comments at 1-3.

176 NASUCA Comments at 61.

177 IA UB Comments at 2; USVI PSC Comments at 8-9.

VII. THE NEED FOR CLARITY AND ACCOUNTABILITY IN THE FUND

Despite our differences with CTIA on many (if not most) issues, NASUCA agrees in most respects with CTIA's characterization of the lack of accountability in the current high-cost fund:

> There is no way to know whether the support is advancing universal service -- not only because the Commission has never defined what it means to "advance universal service," but also because -- except for competitive ETCs, which have generally been required to demonstrate how support received will be and has been used to support or expand service in the designated ETC service areas -- there has never been an effort to correlate the payments made to carriers under the program and the specific outcomes produced. If support were reduced to any given funding recipient, would any rural or high-cost customers lose access to the supported services?[178] Would the carrier be able to recover its costs and earn a reasonable return by selling the supported services (and other services that can be provided on the same network) at market-based rates, without support? If so, would such rates still be affordable? Alternatively, if the carrier could not recover its costs and earn a reasonable return absent support, could rural and high-cost customers obtain the supported services from another provider at an affordable rate?
>
> Although over $4 billion flows annually through the high-cost support mechanisms, no one has any idea whether this sum is too much or too little to accomplish the program's goals. Questions such as these have been debated in the Commission's universal service proceedings, but only in the abstract. No concrete effort has been made to determine how much support is necessary to achieve universal service goals in rural and high-cost areas, or how support should be deployed in order to do so. Thus, once the goals of universal service have been determined, the Commission must proceed without delay to set up support mechanisms that *target* support in a *quantifiable* way to achieve the established goals.[179]

And again, despite our frequent disagreements with the RSP's positions, NASUCA

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[178] NASUCA does not agree that the test for sufficiency of support is whether the consumer would lose service in the absence of the support. The statute requires reasonable comparability of rates in addition to affordability.

[179] CTIA Comments at 22-23 (emphasis in original); see also GCI Comments at 23-27.

agrees with the RSP that

> [w]ithout some outcome-based assessment methodology, the commission will be unable to estimate the effects of reforms before they are adopted or assess the effects of reforms after they are adopted. We suggest, therefore, that the commission begin by adopting such a system of assessment.[180]

Among the key aspects of such a system of assessment, the Commission should:

> • Explicitly define how it will measure availability and rate comparability for wireline, wireless, and broadband in high-cost areas.
> • Conduct and publish analysis to determine how the proposed reforms are likely to affect availability and rate comparability.
> • Set outcome goals and report on outcome measures.
> • Define when the problem could be considered solved.
> • Require states receiving grants to report data on availability and prices of service to the Universal Service Administrative Corp. and/or the FCC.
> ....
> • Arrange for independent program evaluation after the reforms are adopted.[181]

However, as part of its proposals for "outcome measures" the RSP proposes that the success of the high-cost program should be measured based on its impact on subscribership, and notes that the programs "appear to be a very costly way of increasing subscribership."[182] It should be recalled, however, that the very first principle of § 254(b)(1) is that "[q]uality services should be available at just, reasonable, and affordable rates." And § 254(b)(3) says that "low-income consumers and those in rural, insular and high cost areas" should have access to services that are reasonably comparable to those available in urban areas "at rates that are reasonably comparable to rates charged for

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[180] RSP Comments at 3.

[181] Id.

[182] See RSP Comments at 10.

similar services in urban areas." Thus although increasing subscribership is one goal of universal service programs, preventing consumers from losing service is another. And the goal of reasonably comparable service at reasonably comparable rates can be viewed as independent of consumers' actual decision to subscribe.[183]

NASUCA's initial comments discussed the need for greater oversight for the uses of federal high-cost funding.[184] Those concerns are shared by WY OCA, which proposes that the Commission "consider issuing guidance to the state regulators, the telecommunications industry and other interested parties regarding the type of information that is desired and/or expected to be reviewed before providing assurance that the funds are being used for the purposes specified by Federal law."[185] NASUCA agrees with this proposal.

VIII. THE AT&T PROPOSALS

A. INTRODUCTION

The key thing about the AT&T proposal is that it would entirely replace the current support that goes to voice networks with support for wireline and wireless broadband, at least in the territories of price-cap ILECs.[186] As discussed in Section III. above, this ignores the continuing importance of voice service. These are not mere

[183] RSP's emphasis on the "relative burden" of communications (id. at 7) is largely relevant only to affordability, not to reasonable comparability. Further, although we agree on principle with RSP's assessment measures, and agree that the fund needs to be restrained, we strongly disagree with many aspects of RSP's analysis of the impact of universal service assessments on consumer welfare. Id. at 11-15.

[184] NASUCA Comments at 61-62; see also NJ DRC Comments at 50-51.

[185] Wy OCA Comments at 3.

[186] A curious aspect of AT&T's discussion is that it discusses only "price-cap" and "rate-of-return" ILECs, without acknowledging the current "rural carrier" and "non-rural carrier" distinctions, or attempting to map the differences between the two systems.

"vestiges" of universal service support mechanisms, as AT&T would have it, and also do not "stand in the way of" (as AT&T alleges) a goal of achieving ubiquitous broadband and mobility services.[187]

It also appears that, as a part of its move, AT&T would seek to do away with any POLR responsibility for price-cap carriers.[188] This change -- including the interface with state laws enforcing the POLR responsibility -- deserves far more discussion than the short shrift AT&T gives it.[189] AT&T does say that recipients of broadband funding would also have to provide "access to voice telecommunications capabilities"[190] but this would not apparently include the POLR responsibility.[191] It would also not necessarily include "all of the existing nine supported voice features in the existing universal service definition,"[192] but AT&T gives no indication of which of the features would be abandoned.

Like other commenters, AT&T does not provide any evidence to show how, for AT&T in all or any of its states, the current mechanisms have "failed … in a competitive environment in which new entrants can be allowed to cherry-pick the most lucrative customers…."[193] Specifically, AT&T does not show how rural rates in its territories are threatened to become unaffordable or not reasonably comparable due to the removal of

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[187] AT&T Comments at 2.

[188] See, e.g., id. at 7.

[189] This is not the only respect in which AT&T's proposals seemingly ignore states' rights and responsibilities.

[190] Id. at 12.

[191] Id. at 4.

[192] Id.

[193] Id. at 2; see also id. at 30.

the alleged "implicit subsidies."[194] Likewise, AT&T provides no basis for, much less evidentiary support for, its claim of "the fact that the current amount of funding provided to non-rural carriers is inadequate for these carriers to continue providing affordable POTS services to their millions of customers in high-cost rural areas."[195]

B. THE BROADBAND INCENTIVE FUND AND THE ADVANCED MOBILITY FUND

As discussed above, the fundamental flaw in the AT&T proposals for these new funds is that they are intended to replace support for a voice system that is far from obsolete. Therefore, these reply comments will not address AT&T's extensive procedural discussion for the new funds.[196]

AT&T recommends that "all support currently received by price cap and wireless ETCs be transitioned to the two new funds…."[197] By AT&T's accounting, the former amount is approximately $756 million.[198] AT&T does not indicate the amount it estimates is currently received by wireless ETCs, although it appears that they receive about $1 billion.[199]

But AT&T also proposes "an infusion of new dollars in amounts to be determined by the Commission…."[200] AT&T does not provide an estimate of the amount of funding

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[194] Id. at 2.

[195] Id. at 31. Similarly, there is no showing that this inadequacy is due to the use of statewide averaging for the non-rural carriers. Id.

[196] Id. at 10-22.

[197] Id. at 10.

[198] Id. at 22. AT&T does not reveal the source for this number, but it appears reasonable given the amount currently received by non-rural carriers (excluding non-rural rate-of-return carriers) and price-cap rural carriers, less the amount received by CETCs.

[199] See NASUCA Comments at 12.

[200] AT&T Comments at 4.

that would be required to provide broadband service to currently unserved areas in its territories.

As for the Advanced Mobility Fund, AT&T proposes a five-year phase-out of current wireless CETC funding accompanied by a five-year phase-in for its proposed fund.[201] This is not substantially different from the Joint Board's (and NASUCA's) proposals. NASUCA would note, however, that the apparent requirement that funds be spent on wireless broadband effectively rejects the use of wireless for voice service and is thus inappropriate for a true mobility fund.

C. Funding for price-cap ILECs

AT&T proposes that current funding for price-cap carriers be transitioned to its Broadband Incentive Fund "on a state-by-state basis when the relevant state commission grants a price cap ILEC complete retail pricing deregulation."[202] AT&T explains that

> [f]or purposes of this proposal, by "complete" or "full" retail pricing deregulation, AT&T means complete pricing flexibility with respect to all retail services, including basic residential and business access lines. An ILEC does not have complete retail pricing deregulation if, for example, it operates under a cap or is unable to increase its rates above a certain percentage each year.[203]

AT&T does not identify in which of its states it is currently under such "complete pricing deregulation," or indeed, in which states any of the price-cap carriers enjoy such freedom. So this may be currently a moot point. AT&T's all-or-nothing approach is obviously completely dependent on the actions of state commissions, and is thus largely contingent on the conditions in state law.

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[201] Id. at 23.

[202] Id. at 22.

[203] Id., n.30.

As AT&T admits, its proposal is based on the premise that "once price cap ILECs obtain the ability to price all services at market-based levels, those ILECs would no longer need support under the existing high-cost mechanisms to continue providing basic service to high-cost areas."[204] Yet as discussed in Section III.C.3. above, carriers with "market-based" rates are also under no obligation to ensure that rural rates are affordable or that they are reasonably comparable to urban rates. It is thus apparent that AT&T seeks to fund broadband on the backs of ratepayers -- especially rural ratepayers -- whose rates would be subject to rate increases at AT&T's (and other price-cap ILECs') whim, including the amounts of those increases. And given that AT&T would use the broadband funds first in the states from which the current POLR funding comes,[205] it appears that AT&T is holding out the carrot of broadband deployment to those states in order to achieve complete deregulation.[206] Unfortunately, it is the consumers of voice services who will be beaten down by the "stick" of increased rates.

AT&T also asserts that unless the states order such deregulation, the Commission will have to issue rules in the *Qwest II* remand.[207] Apparently this is intended as an incentive for the Commission to "encourage" state deregulation, in order to avoid having to issue such a ruling.

In the absence of a transition to broadband funding, AT&T shows the lengths to which it will go to secure additional funding:

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[204] Id. at 22.

[205] Id. at 15-16, 23.

[206] This is, of course, consistent with AT&T's (and its predecessors') historical approach. Funding is evidently also dependent on price cap ILECs other than AT&T wanting to seek this complete price deregulation.

[207] Id. at 30.

> Applying AT&T's proposal, a non-rural price cap carrier could petition the state commission or the Commission to declare certain of its high-cost wire centers to be "unserved" if continued or new targeted support is necessary to maintain service in the area at affordable rates. Moreover, carriers would identify the amount of support necessary to provide voice service in its high-cost areas so that there would be no question about the sufficiency of this support.[208]

Thus if a carrier thinks it does not get enough support, it will assert to the Commission that the area where it provides service is actually unserved. And the carrier will identify how much support it should get. This is nothing short of absurd.

AT&T's proposal must be rejected. Funding for broadband should not be contingent upon state deregulation of wireline service. As argued by NASUCA, the non-rural carriers (which include most of the price-cap ILECs) have not adequately justified their current high-cost funding, so that most of it could be transitioned to a broadband fund without state deregulation. Any additional funding would appropriately come from broadband services themselves.[209] And there has been no showing that price-cap carriers actually need additional funding for their voice services.

D. FUNDING FOR RATE-OF-RETURN ILECS

From its lofty position as a mammoth price-cap carrier, AT&T makes pronouncements about the motivations of rate-of-return carriers. AT&T asserts that "many of these companies may be reluctant to offer broadband services such as Internet access and VoIP services because these broadband services affect these companies' access charge revenue streams."[210] AT&T cites no claim to that effect from any rate-of-

[208] Id. at 31.

[209] NASUCA Comments at 12, 19-21.

[210] AT&T Comments at 24.

return carrier.[211] And although AT&T claims to provide reasons elsewhere in its comments,[212] no such explanation is given. Based on the statements of rate-of-return carriers, it does not appear that they have been reluctant to make broadband investments because of any lack of clarity in the Commission's rules.[213] Nonetheless, this issue will likely be resolved with the adoption of the Joint Board's proposed Broadband Fund.[214]

AT&T also proposes that the Commission "re-index the current high-cost loop fund after an appropriate period of time (e.g., three years) as an additional incentive to offer broadband services."[215] This seems like a roundabout way of accomplishing what could be done explicitly through the Joint Board's Broadband Fund.

E. "ACCESS CHARGE HARMONIZATION"

AT&T asserts that, as just mentioned,

> [t]he existence of high access charges have created a disincentive to broadband investment because the broadband Internet access and VoIP services made possible by that investment have avoided access charges, depriving ILECs of these important revenue streams on which they rely to offer below-cost POTS service where such broadband services are offered.[216]

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[211] Indeed, for example, although TDS recognizes the impact of VoIP on access charges (TDS Comments at 12), it boasts of providing broadband service to 86% of its households. Id. at 5. See also CenturyTel Comments at 28.

[212] AT&T Comments at 24.

[213] Id.

[214] NTCA also addresses this issue when it proposes that rural carriers be able to "assess IP applications providers that ride and impose costs on rural broadband networks." NTCA Comments at 17. Such a practice would be consistent with NASUCA's position that those who use networks should help pay for those networks. See *In the Matter of FeatureGroup IP Petition for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of 47 U.S.C. § 251(g), Rule 51.701(a)(1), and Rule 69.5(b)), Broadband Industry Practices*, WC Docket No. 07-257, et al, NASUCA Comments (February 19, 2008) at 2-3.

[215] Id. at 25.

[216] AT&T Comments at 27.

AT&T provides no evidence of the magnitude of this supposed disincentive. Indeed, by all accounts, smaller rate-of-return carriers have been much more forthcoming with broadband service than have the larger price-cap carriers.[217]

And AT&T's explanation of the phenomenon makes little sense: "This occurs, for example, when the subscriber obtains voice service from an over-the-top VoIP provider as a substitute for traditional long distance service, because VoIP providers do not pay terminating access charges to ILECs for calls terminated on ILEC networks."[218] This would impact the ILEC only where the long-distance call terminated on that same ILEC's network, a not-too-frequent occurrence. The key reluctance would be to avoid making broadband available at all in order to avoid losing the customer's voice service, but that loss is likely more than made up for by the revenues from broadband itself, as shown by small telephone companies' investments in broadband.

As its first step to "harmonization," AT&T proposes that the Commission

> reduce and replace access charge revenues with alternative recovery mechanisms that are more compatible with a broadband connectivity business model. As an initial step, AT&T proposes mechanisms that would enable carriers to reduce intrastate originating and terminating access charges to interstate access levels.[219]

The "mechanisms" would "include some combination of increases to federal subscriber line charges (SLCs) and additional federal access universal service funding."[220]

[217] See footnote 211.

[218] AT&T Comments at 28, n.38.

[219] Id. at 28.

[220] Id. at 28-29.

The first thing noticeable about this proposal is its similarity to aspects of the Missoula Plan to "reform" intercarrier compensation, of which AT&T was a prime supporter.[221] Yet AT&T's comments contain not one mention of the Commission's 01-92 docket, in which consideration of the Missoula Plan is pending. But there are also differences between this proposal and the Missoula Plan. One cannot help but speculate that AT&T's support for the Missoula Plan -- which, after all, was proposed to be adopted as a unified package[222] -- has wavered.

That being said, it should not be necessary to repeat here the many flaws in the notion of the USF as a recovery mechanism for lost access charge revenues.[223] Further, there is the entire issue -- not addressed by AT&T here -- of whether the Commission has the power to direct reductions in **intrastate** access charges.[224]

Finally, AT&T proposes that the access charge replacement funding established for price-cap ILECs will migrate to AT&T's Broadband Incentive Fund.[225] But there is no suggestion for the migration of the access charge replacement funding for rate-of-return ILECs.[226] It is safe to say that the current intrastate access charges for rate-of-return ILECs are likely higher than price-cap ILECs' intrastate access charges.

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[221] See *In the Matter of Intercarrier Compensation*, CC Docket No. 01-92, National Association of Regulatory Utility Commissioners' Task Force on Intercarrier Compensation filing (July 24, 2006) ("Missoula Plan").

[222]Id., Comments of Missoula Plan Supporters (October 25, 2006) at 2.

[223] See NASUCA Comments at 47-50.

[224] See *In the Matter of Intercarrier Compensation*, CC Docket 01-92, Comments of the National Association of State Utility Consumer Advocates (October 25, 2006) at 38-41.

[225] AT&T Comments at 28.

[226] In its initial discussion of rate-of-return ILECs, AT&T makes no suggestion for their contribution to the Broadband Incentive Fund.

F. Lifeline

In a number of places, AT&T notes that applicants for the advanced funds would be required to offer Lifeline service.[227] NASUCA has proposed that participants in the Broadband Fund and the Mobility Fund be required to offer their broadband and mobile services to Lifeline customers at a discount,[228] but AT&T's proposal would apparently include only fixed voice service in the Lifeline offering.[229] That limitation is no improvement over the current situation.[230]

AT&T does propose the Commission "establish a stand-alone ETC designation for Lifeline/Link-Up providers."[231] Again, this is apparently limited to voice service. NASUCA agrees that such a designation would be of benefit to increased numbers of subscribers. NASUCA supported the TracFone Petitions for Lifeline ETC designation that were recently granted by the Commission.[232]

IX. THE QWEST PROPOSAL

On May 5, 2008, after the initial comments were filed, Qwest filed "a proposal for revising the methodology used to determine high-cost universal service support for 'non-rural' incumbent local exchange carriers …, to comply with the Tenth Circuit Court of Appeals' decision in *Qwest II.*"[233] Qwest's proposal, like those of other ILECs,

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[227] AT&T Comments at 12; see also Windstream Comments at 18.

[228] See NASUCA Comments at 16, n.45 (broadband); id. at 22, n.55 (mobility).

[229] AT&T Comments at 26.

[230] See AARP Comments at 54-56; NCLC Comments at 3-5.

[231] AT&T Comments at 26; see also YourTel Comments at 3-4..

[232] 96-45, Order, FCC 08-100 (rel. April 11, 2008).

[233] Qwest ex parte (May 5, 2008) ("Qwest Proposal"), cover letter at 1.

asserts that support should be provided on a wire center basis, without the statewide averaging used in the current mechanism.

As noted above, Qwest did not explain why its proposal could not be offered with its comments in this proceeding. This preliminary reply to Qwest's proposal is made in the interest of the record, so that the major errors in the proposal can be brought to the Commission's attention. If the Commission is to give full consideration to the proposal, however, it must be set out specifically for public comment.

According to Qwest, its proposal, if applied to all non-rural ILECs "would increase the amount of support provided to non-rural eligible telecommunications carriers ('ETCs') by about **$1.2 billion**."[234] As a compromise to this 25% increase in the size of the current $4.7 billion high-cost fund,[235] Qwest asserts that the Commission

> could reasonably decide, on an interim basis, to target wire-based federal support to the rural areas served by smaller non-rural ILECs, namely, those other than AT&T and Verizon. Given their smaller size, scale, and scope, these "medium-size ILECs" have been most affected by the loss of implicit subsidies resulting from robust competition in urban areas. By initially limiting the rule modifications to the medium-size ILECs, the Commission could limit the size of the increase in the non-rural program to about $322 million.[236]

As hinted at in the preceding quotation, the reason for Qwest's proposal is its assertion that there has been a loss of implicit support for its rural wire centers, which, according to Qwest, "makes it difficult for non-rural ILECs to provide basic telephone

[234] Id. at 2 (emphasis added).

[235] Qwest notes that its calculation requires a freeze on the amounts paid to CETCs. Id., n.1.

[236] Id. at 1. This $878 million difference reflects the size of the A&T and Verizon operations in their territories.

services at reasonably comparable rates….”[237] Obviously, this is the same claim, discussed above, made by the other ILECs that want to eliminate statewide averaging and to have support calculated on a wire center or exchange basis. And Qwest, like these other ILECs, fails to support its claims with any systematic data, and, in particular, fails to show that these wire centers need additional support in order for rural rates to remain reasonably comparable.

Qwest begins by citing the *Qwest II* finding that the Commission's high-cost support rules for non-rural ILECs rely on an "erroneous, or incomplete, construction" of Section 254.[238] But Qwest fails to acknowledge that the Commission's failure, according to the Tenth Circuit, was to define the key terms of "sufficient" and "reasonably comparable" following the directives of **all** of the principles in 47 U.S.C. § 254(c). Qwest also fails to understand that its proposal -- bent only on increasing the amount of support that it receives -- brings us no closer to a lawful definition of either term.

Qwest also complains about the amount of high-cost support some states and CETCs receive.[239] NASUCA does not disagree that this support may be excessive… but that does not mean that, of necessity, Qwest and the other non-rural ILECs in the other states receive **insufficient** support. Indeed, this is underscored by Qwest's serious understatement of the amount of support it receives: "Despite the rural nature of much of the 14 western states it serves, Qwest received only $27 million in federal high-cost

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[237] Qwest Proposal at 3. Qwest also raised the specter of inadequate broadband investment. See, e.g., id. at 17-18. This will be taken care of under the Joint Board's Broadband Fund initiative, which Qwest does not mention.

[238] Id. at 1, quoting *Qwest II*, 398 F.3d at 1226.

[239] Id. at 2.

assistance in 2007…."[240] Yet as shown on a state-by-state basis in NASUCA's initial comments, Qwest actually received $83.7 million in high-cost support in 2007, when both HCM and IAS are counted.[241] Qwest's $27 million figure includes only HCM.

NASUCA's NRHC Comments showed that, with few exceptions, non-rural carriers' rates in 2005 -- at 2005 levels of support -- were indeed reasonably comparable to urban rates. Despite Qwest's selective discussion of lost implicit support,[242] Qwest gives no indication that it has applied to any of its states to increase rural rates because of that lost support.

Indeed, Qwest merely asserts that "[i]n practice, the … option of raising rates in rural areas often is not available, because of state prohibitions and the significant administrative expense of maintaining geographically disaggregated rates."[243] But Qwest does not even cite a single one of those state prohibitions, or give any indication of the magnitude of the supposed expense.[244] Instead, as discussed above in the Embarq context, "It may simply be that it is easier for [Qwest] to attempt to convince a national Joint Board and the FCC to assist it with universal service funds than it is for [Qwest] to seek rate increases in these states for these wire centers and portions of wire centers. But that turns the universal service support issue basically backwards."[245]

In the end, Qwest simply fails to show that there is "a significant risk that

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[240] Id.

[241] NASUCA Initial Comments, Appendix 3.

[242] Qwest Proposal at 13-14.

[243] Id. at 17.

[244] Such as that incurred in Wyoming, perhaps.

[245] See Section III.C.2. at 25, quoting NASUCA May 31, 2007 Comments at 17.

consumers will not have access to telecommunications and information services that are reasonably comparable to those services available in urban areas, as they are entitled under the Act."[246] Certainly, Qwest has not quantified the risk. By contrast, Qwest has quantified the impact of protecting consumers from this supposed risk: either $1.2 billion or $322 million, depending on which ILECs' customers are deemed to need protection.

Those amounts would come from the heart of Qwest's proposal, which is "to target support to wire centers with costs that exceed a particular benchmark, which Qwest recommends the Commission set at 125 percent of the national average rate."[247] Although the specifics are a little hard to discern, it appears that Qwest would give support to any wire center where costs exceed 125% of the national average urban rate, which apparently according to Qwest is $25.27,[248] such that all wire centers with costs in excess of $31.59 would be supported in the full amount of the excess. The impact of the proposal on a holding company basis is shown in Qwest's Attachment B; the impact on a state-by-state basis is also shown in Qwest's Attachment B.

To begin in evaluating Qwest's proposal, it is important to note that although the current non-rural high cost mechanism recognizes reasonably comparable rates as those within two standard deviations of the national urban rate,[249] determination of support does not use that rate benchmark at all. Instead, support is given to wire centers in states where the statewide average **cost** is more than two standard deviation above the national average

[246] Qwest Proposal at 17.

[247] Id. at 22.

[248] See id. Attachment B. See Monitoring Report, Table 7.6. It should be recalled that the FCC's number is based on a sampling of 95 urban areas. As reported in NASUCA's initial comments, a survey of all rates in all wire centers that were 100% urban yielded an average rate of $19.57.

[249] Qwest Proposal at 24.

cost.[250] And support is given for 76% of the costs above the benchmark.[251] So Qwest's proposal goes far beyond merely doing away with statewide averaging and moving the benchmark to 125 of the average, which is what Qwest says will "advance" universal service a required by *Qwest II*.[252]

As discussed in NASUCA's initial comments, in the NRHC comment cycle Qwest had proposed a wire-center-centric support mechanism that would have cost an additional $1.9 billion.[253] This latest proposal by Qwest reduces that amount to $1.2 billion, for which one should be thankful. In its earlier manifestation Qwest proposed the alternative of allocating the then-current fund amount without statewide averaging,[254] which merely diluted the fund out of all recognition. That proposal has apparently fallen by the wayside; Qwest's current compromise is to eliminate AT&T and Verizon from the take. That would reduce the incremental funding to $322 million.

Attachment 1 to these reply comments shows the impact of Qwest's proposal, in comparison to funding under the current mechanisms. Attempting to display these results raises additional questions about Qwest's approach. First, it appears that Qwest does not intend its approach to supplant the IAS or Interstate Common Line Support received by non-rural carriers. Thus its proposal would be in addition to that support. But for its alternative proposal, which excludes AT&T and Verizon, it is also not clear whether the intent is to supersede the HCM currently being received by those companies.

[250] See NASUCA Comments at 24-25.

[251] Id.

[252] Qwest Proposal at 24, citing *Qwest II*, 398 F.3d at 1236-37.

[253] NASUCA Comments at 43.

[254] Id. at 43-44.

Despite these issues, a few things are clear based on the results of Qwest's proposal: First, Qwest would receive almost $140 million more each year under its plan.[255] And Qwest's plan would award $1.193 billion in high-cost model support to companies that currently get no such support.[256] Of course, this does not include current IAS or ICL amounts already received by these carriers. Perhaps the best example of Qwest's over-reaching is the fact that its plan would give Ohio $78 million more per year, including apparently money to Cincinnati Bell Telephone ("CBT"), which last year earned a return on equity of **89.62**%.[257]

But it should be obvious that Qwest is asking for it and the other large ILECs to receive these huge amounts in additional support, in the absence of any demonstration that their rural rates are at any real risk of becoming no longer reasonably comparable to urban rates. Much less that their current rates are not reasonably comparable. Qwest's proposal must be rejected.

X. THE SPRINT NEXTEL PROPOSAL

As noted above, the Sprint Nextel proposal, which is dubbed the "Comprehensive Universal Service Reform (For Everyone) High Cost Support Plan (The 'CURE' HCS Plan),"[258] was filed on May 12, 2008. Even more so than Qwest's proposal, Sprint Nextel's eleventh-hour filing, with its timing unexplained, cannot be the basis of any Commission decision. Sprint Nextel effectively acknowledges this in asking the

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[255] Attachment 1.

[256] Id.

[257] 2007 Annual Report to the Public Utilities Commission of Ohio. CBT's five year average return on equity was **67.13%.**

Commission to give the proposal "due consideration, including seeking comment from the public."[259] Thus the discussion here is by no means complete, being intended only to highlight the most egregious aspects of Sprint Nextel's "cure."[260]

In the CALLS Order, the Commission replaced price-cap ILECs' lost access charge revenues in part through increases to the SLC (from the then-current $3.00 to the present $6.50), and by increasing the USF by $650 million through the IAS.[261] In the MAG Order, the Commission replaced rate-of-return carriers lost access charge revenues by increasing their SLCs to the current $6.50, and by creating the ICLS, which amounted to $1.39 billion in 2007.[262] Both of those decisions replaced a declining revenue stream with a fixed revenue source, to the ultimate detriment of consumers nationwide.

Similarly, the Missoula Plan would also have replaced ILECs' access charge revenues with increased SLCs (up to $10.00) and mammoth increases in the USF. The Commission has not yet acted upon the Missoula Plan, which was presented to it in 2006.

Now Sprint Nextel has proposed a switch on the CALLS/MAG/MP methodology: That is, to replace lost universal service fund revenues by increasing SLCs nationwide. Sprint Nextel asserts that "[a]lthough consumers would see SLC increases, these

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[258] Sprint Nextel Fact Sheet at 1.

[259] Sprint Nextel "Universal Service Reform High Cost Support Four-Step Plan" (May 12, 2008) ("Sprint Nextel Proposal") at 7.

[260] The acronym is perhaps intended to be reminiscent of the Coalition for Affordable Local and Long Distance Service ("CALLS") proposal previously adopted by the Commission. If so, the reminiscence is not a favorable one.

[261] *In the Matter of Access Charge Reform*, CC Docket No. 96-262, et al., Sixth Report and Order, et al., FCC 00-193, 15 FCC Rcd 12962 (2000) ("*CALLS Order*").

[262] *In the Matter of Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, *et al.*, Second Report and Order, *et al.* FCC 01-304, 16 FCC Rcd 19613 (2001) ("*MAG Order*") ; USAC 2007 Annual Report at 43.

increases are offset by the lowering of monthly federal universal service pass-through charges on consumer bills as universal service fund contributions are reduced under the HCS Plan."[263] The SLC increases would amount to $3.50 per month over four years[264]; a consumer would have to be paying substantially more than that in current USF to benefit from the CURE proposal.[265] For example, at the current $6.50 SLC cap, a customers' USF assessment at the 11.3% assessment rate is 74¢, for a total of $7.25. At a $10.00 cap and a 6.0% assessment rate,[266] the consumer would be paying $10.60. Clearly, there is no real offset involved.

Equally importantly, the Sprint Nextel proposal replaces revenues that are supposed to be targeted to high-cost areas with SLC revenues that come from all areas, high- and low-cost. The CALLS and MAG plans actually added to that targeted support (along with their increases to the SLCs); there is no equivalence in the CURE plan. That makes all of Sprint Nextel's reference to a "deeply rooted historical connection between universal service support and federal subscriber line charges"[267] pure hokum.[268]

Further, it is not quite clear how the SLC caps would work under Sprint Nextel's plan. Although the SLC revenues are intended to replace the lost USF dollars, it does not appear that the increases to the SLC are limited to that replacement. For instance, Sprint

[263] Sprint Nextel Proposal at 5.

[264] Id. at 4.

[265] It is not clear whether Sprint Nextel has factored in additional USF revenue assessed from the increased SLCs into the end of its plan.

[266] Id. at 7.

[267] Id. at 3.

[268] Likewise, the use of total holding company SLC revenues as the amount of USF offset (id. at 4) exacerbates this lack of targeting.

Nextel calculates that "[f]or ILECs with more than ten million lines the average monthly SLC increases ranges from $0.26 to $0.46."[269] Yet it appears that their SLCs will be able to be increased up to $3.50. This makes no sense, but a plan that merely offsets lost USF revenues with SLC increases does not become any more acceptable.

What is clear is that the Sprint Nextel proposal would reduce Sprint Nextel's responsibility for the fund, and that of every carrier other than the ILECs -- and their customers. This is hardly a point in the proposal's favor.

A final point in this brief review would have to be to note all the key parts of the Act and the *Comprehensive Reform Recommended Decision* that Sprint Nextel has overlooked.[270] In the Act, there is the idea of rural rates that are reasonably comparable to urban rates, and that are affordable. The CURE plan does not advance that cause. Then there is the issue of the identical support rule. Sprint Nextel apparently assume the continuation of the rule. And Sprint Nextel says nothing specific with regard to mobility, or enhancing broadband.

In order to consider the Sprint Nextel proposal, the Commission would have to put it out for separate public comment. NASUCA urges the Commission instead to recognize the CURE as a non-starter, and dismiss it without the need for further comment.

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[269] Id. at 5. These ILECs are the AT&T, Verizon and Qwest companies.

[270] Which is not to say that the Sprint Nextel plan is entirely without merit. The plan to consolidate affiliated study areas (id. at 5-6) is similar in many respects to NASUCA's proposal for rural carriers. See, e.g., NASUCA reply comments (December 14, 2004), in response to FCC 04J-2 ("NASUCA RHC Reply Comments") at 15-20.

XI. THE NTCA PROPOSAL

By contrast to AT&T (among the largest of the large) and Qwest (the smallest of the large), NTCA represents some of the smallest of the small telephone companies. NTCA identifies the concerns of its members regarding deployment of "universal service" broadband as follows (although the same concerns obviously apply to POLR service):

> The ability of rural providers to obtain the financial resources necessary to be able to offer their customers broadband services comparable to those available to non-rural customers comes from several sources: (1) subscriber line charges, (2) access charges, (3) universal service funds, (4) cost or average schedule settlements and (5) charges to the end user customer.[271]

It appears that NTCA is concerned about the interstate side, but these five sources of revenue also have their intrastate equivalents.

NTCA's true focus, however, is lost access charge revenues.[272] Like Qwest, NTCA openly proposes the USF as a default source of revenue.[273] This is, of course, without any discussion of current levels of rates, the ILECs' overall returns,[274] or, indeed, whether their rates would actually be at risk of no longer being reasonably comparable in the absence of those access revenues.

Part of NTCA's concern is the supposed threat to broadband deployment.[275] Under the Joint Board's proposal, that would be the explicit responsibility of the Broadband Fund, rather than being an implicit part of the high-cost fund as it is today.

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[271] NTCA Comments at 12.

[272] Id. at 14.

[273] Id.

[274] In Ohio, many of the small ILECs (and large ILECs as well) earned returns in excess of 20% in 2007.

[275] NTCA Commments at 15.

But NTCA wants to continue the current high-cost support structure.[276] This would allow for additional support only if broadband service is "Title II regulated," and NTCA wants the companies accepting that support to report their costs and revenues in far greater detail than NTCA's members currently do.[277] This clearly disadvantages carriers other than NTCA members. It is not surprising, but not in the public interest either.

Finally, NTCA also wants support for – or at least consideration of – the costs of transporting traffic.[278] The transport in question occurs because of wireless and VoIP providers.[279] NASUCA agrees that these cost, their genesis, and the responsibility for picking up those costs, is a subject deserving of separate consideration. But it does not appear to be a subject that is a necessary part of the broader comprehensive reform of the USF being considered here.

XII. THE WINDSTREAM PROPOSAL

Windstream's take on the current fund structure is relatively simple:

> It provides too much support to some incumbent local exchange carriers … and not enough to others, all without an objective way to assure service is affordable to consumers. These flaws are to the detriment of all consumers paying for universal service, and in particular to the detriment of rural consumers living in areas served by underfunded carriers.[280]

Unfortunately, Windstream does not deign to identify the ILECs that it believes are

[276] Id. at 18.

[277] Id.

[278] Id. at 49; see also WTA Comments at 15.

[279] NTCA Comments at 50.

[280] Windstream Comments at 2.

"overfunded." Windstream also does not identify any of the ILECs that are allegedly underfunded, so that an evaluation could be made of the "detriment" to the rural customers served by those carriers. It is probably safe to assume, however, that Windstream believes that some (if not all) of its own rural customers suffer from underfunding, or more likely, that it (Windstream) suffers from underfunding.

There are two keys to Windstream's proposal: "[T]he Commission should act now to place all price cap companies under a forward-looking mechanism, and reform the mechanism to eliminate eligibility requirements based on statewide average costs."[281] This is supposedly necessary because the current system "particularly disadvantages rural price cap companies subject to the embedded cost mechanism."[282] In other words, basing these rural carriers' support on their actual costs provides less support than the support that would be provided under a forward-looking mechanism **in the absence of statewide averaging.**[283] Presumably, Windstream believes that its funding will increase under its proposal. (Windstream's proposal suffers by contrast with Qwest's, which at least revealed the amount of resultant benefit to the proposer.)

It is not clear whether the two prongs of Windstream's proposal are interdependent, or if not, which is more important. Neither prong stands up to examination, however.

On the price cap side, Windstream's proposal is like AT&T's in focusing on the form of interstate regulation, rather than on whether the company fits the Act's definition

[281] Id. at 2.

[282] Id. at 5.

[283] Notably, other than its proposal to do away with statewide averaging for all price-cap carriers, Windstream does not propose any changes to the FCC's current model.

of rural telephone company. Windstream states, "By applying the [Windstream] mechanism to remaining price cap carriers, the Commission would eliminate the mismatch between carriers' basing investment decisions on the competitive marketplace, while receiving universal service support due to embedded costs."[284] Yet the "mismatch" is not all that clear: Although it is likely that most of the non-rural carriers' intrastate investment decisions are covered by their federal price-cap status, it is uncertain how many of the rural carriers that are price-capped on the interstate side are still under rate-of-return regulation on the state level.

As shown in an April 23, 2008 ex parte letter from IA TSI in this docket, rural price-cap carriers include companies owned by Windstream, Citizens, Embarq, Verizon, CenturyTel, Qwest and IA TSI itself.[285] Absent some estimation of the impact of the use of model support for these rural companies, Windstream's proposal should be rejected out-of-hand.[286] ITTA proposes that rural price-cap carriers have the "option" to receive support under the FCC's non-rural carrier model.[287] Under this opportunity for gaming, only the carriers that would be advantaged would "opt in." As stated previously, carriers should not be given the liberty to specify their needs for high-cost funding.

Based only on the allocation of space in its comments, however, it would appear that doing away with statewide averaging is more important to Windstream. At length,

[284] Id. at 6.

[285] Consolidated also has a pending petition for conversion to price cap regulation. In the Petition, however, Consolidated committed to a **lower** level of universal service support than it otherwise would be entitled to.

[286] As the Commission knows, IA TSI has a pending petition for waiver to allow it to collect support under the model. Its petition for forbearance to accomplish the same result was denied in August 2007 in FCC 07-142.

[287] ITTA Comments at 21; see also IA TSI Comments at 2, 5-9.

Windstream discusses some of the original bases for the policy, but ignores much of the original and subsequent rationale.[288]

The central problem, in Windstream's view, is that

> [m]any states have failed to take advantage of "the opportunity to support [their] high-cost wire centers with funds from [their] low-cost wire centers" through establishment of an explicit state fund. Consequently many carriers in genuinely high-cost areas are grossly underfunded. States fail to provide support that reduce these carriers' costs to a level equal to statewide average costs. Then compounding the problem, the Commission assumes the carriers' states have rebalanced rates (even if they have not) and, in most cases, fails to provide adequate support on that basis. Currently carriers in 40 states do not receive any forward-looking support to offset the costs of serving high-cost areas.[289]

One hardly knows where to begin in pointing out the flaws in this argument. One place would be pointing out that the reference to "forward-looking support" (which in 2007 amounted to $346 million) overlooks IAS, which in 2007 awarded $645 million in high-cost funding to non-rural carriers, with, as noted above, only one jurisdiction not receiving high-cost funding.[290] Another point would be to note that states that have not rebalanced rates or established intrastate universal service funds have evidently not seen the need to do so. But the biggest problem with Windstream's argument is that it utterly fails to identify any carrier in any state that is underfunded, or where rates are not affordable or reasonably comparable. Although typical of the industry, this sort of rhetoric is hardly the basis for major changes to the high-cost fund.

Windstream itself acknowledges that "[w]hen adopting this forward-looking mechanism, the Commission acknowledged that 'the 1996 Act does not require states to

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[288] See NASUCA Comments at 41-46.

[289] Windstream Comments at 10, quoting *Ninth Report and Order*, ¶ 49.

[290] See footnote 3.

establish explicit intrastate universal service support mechanisms.'"[291] Windstream does not mention, however, that the *Qwest II* court agreed, and found the FCC's "inducements" for such mechanisms to be adequate.[292] Likewise, Windstream quotes extensively from *Qwest I*, but fails to acknowledge that *Qwest I* upheld the process of statewide averaging.[293]

As NASUCA stated in the initial comments,

> [T]he Commission should maintain the current practice of statewide cost-averaging for the large non-rural carriers. Where statewide average cost for non-rural carriers is below the relevant federal benchmark, it is appropriate for support, if any, to be an intrastate issue decided by individual states.[294]

Further, as NASUCA noted, the need for statewide averaging exists "whether or not the state contains low-cost metropolitan areas, i.e., if the rural costs for the areas of the state served by non-rural carriers are not high enough to force high rates. It is especially true in states that have low-cost metropolitan areas."[295]

Where states have not adopted intrastate support mechanisms for carriers subject to statewide averaging, it should not be the federal responsibility (or, concomitantly, the responsibility of citizens of other states) to support the carriers in those states. If a state is **unable** to provide adequate support for those carriers -- for economic reasons rather than due to failure of political will -- it should be able to apply to the Commission for supplemental support.

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[291] Windstream Comments at 9, citing *Ninth Report and Order*, ¶ 46, n.140.

[292] *Qwest II*, 398 F.3d at 1238.

[293] *Qwest Corporation v. FCC*, 258 F.3d 1191, 1202 (10th Cir. 2001) ("*Qwest I*").

[294] NASUCA Comments at 41-42 (footnote omitted).

[295] Id. at 42, n. 124.

Windstream attempts to minimize the impact of its proposal by proposing to

> cap the … mechanism at a level equal to the total amount currently distributed to the price cap carriers under the rural mechanism, all carriers under the non-rural mechanism, and access charge replacement and Local Switching Support … for CETCs…. The Commission may choose to supplement this funding in the future with money saved by eliminating the identical support rule and using reverse auctions to reduce the number of mobile CETCs to one per area….[296]

By including "access charge replacement and Local Switching Support … for CETCs" in the cap for incumbent price-cap carriers, Windstream is in fact inflating the allocation of support to incumbent carriers beyond its current levels.[297] And these dollars would be part of the savings from "eliminating the identical support rule and using reverse auctions to reduce the number of mobile CETCs," so Windstream is double-counting those amounts.

More importantly, by doing away with statewide averaging and placing the fund under a cap, Windstream's proposal would simply dilute the current funding. This issue was addressed in NASUCA's initial comments, regarding Qwest's similar proposal.[298]

In the end, there simply has been no showing that either basing price-cap rural carriers' support on embedded costs, or statewide averaging, results in underfunding. As NASUCA proposed in 2005, placing the largest rural carriers under the forward-looking cost model would have reduced the fund by $200 million.[299] And, as noted, no commenter has shown specific situations of underfunding caused by statewide averaging.

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[296] Windstream Comments at 7.

[297] It is also not clear why those CETC amounts should be allocated to ILECs at all.

[298] NASUCA Comments at 43-44.

[299] Id. at 38-39.

Most importantly, it has not been shown that this alleged underfunding has resulted in -- or even threatens -- rural rates that are unaffordable or that are not reasonably comparable to urban rates.

Windstream also separately proposes adoption of a "rate benchmark."[300] Yet this "rate" benchmark is also described as "residential **revenues** per line equal to $20.00 or higher,"[301] without specifying the services from which the revenues are derived, and as an "affordability" benchmark,[302] without specifying how affordability is to be determined. Here again, the lack of specificity and data in the comments is not particularly helpful. One would wonder, however, whether any of **Windstream's** territories -- either that currently receive support, or that would receive support under Windstream's two-prong proposals -- have rates that would be below such a benchmark.

Although the concept espoused by Windstream is not per se objectionable,[303] the lack of detail means it cannot be adopted. But one thing that must be rejected is Windstream's proposal for

> a means to ensure, if necessary, that carriers have the ability to increase rates below the prescribed benchmark, so carriers are not harmed by states that are unwilling to do so on their own. The Commission could permit an end-user charge, such as a subscriber line charge, to be imposed pursuant to federal jurisdiction. Without this measure, intransigent states could otherwise effectively continue to force carriers to charge below-market and below-cost rates, and could preclude carriers from qualifying for federal universal service support.[304]

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[300] Windstream Comments at 25-27 (emphasis added).

[301] Id. at 26-27.

[302] Id. at 27.

[303] Indeed, a benchmark rate approach would be consistent with NASUCA's proposals for non-rural carriers. See NASUCA NRHC Comments at 65-88.

[304] Windstream Comments at 27.

This would be unprecedented interference in intrastate ratemaking, effectively allowing the Commission to substitute its judgment as to costs, revenues, and, indeed, what markets will be, for that of the "intransigent" states.[305] But the truly amazing thing is that Windstream would have the Commission increase end-user rates **so that the carriers can receive universal service support**!

XIII. THE USFON PROPOSAL

In Section III. above, NASUCA addressed the fundamental flaws in USFon's idea that support for "obsolete" voice services should be abandoned. Most of the rest of USFon's comments -- couched as they are in intemperate language, and without support -- could be responded to here.

But the key to USFon's proposal is the "University of Texas School of Law Students' Universal Service Fund Subsidy Cap Model" ("Law Students' Model").[306] The Law Students' Model is accompanied by an "Introduction,"[307] and an "Explanation."[308] The results of the Law Students' Model model are included.[309]

In many respects, the Introduction and Explanation are not very helpful in determining how the Law Students' Model works. One thing that is clear is that the Law Students' Model takes a "top-down" approach, by allocating a $3.45 billion fund[310]

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[305] Windstream also ignores the fact that carriers have constitutional guarantees against confiscatory rates.

[306] USFon Comments, Appendix A at 1.

[307] Id., Appendix A at 1-2.

[308] Id., Appendix A at 7-9.

[309] Id., Appendix 2.

[310] Id., Appendix A at 8, n.9.

among all the jurisdictions based on weighting factors that address population,[311] "market desirability,"[312] and density.[313] The fundamental unit of analysis is the county within each state.[314] Finally, the Law Students' Model "allocate[s] funding between legacy voice services and 'IP Bandwidth' in a technologically neutral fashion, based on user-derived utility estimates."[315] Unfortunately, most of the Law Students' Model's workings are not apparent from the description and the filing available on the FCC's electronic filing system, including the amounts allocated to legacy voice services and IP Bandwidth in a specific area.

Based on the description, however, some questions can be raised about the Law Students' Model:

- It does not appear that there is any direct relation to cost in the Law Students' Model. It appears that the Law Students' Model treats less-populous, less-dense counties as effectively equal in cost. That means that, *ceteris paribus*, a county in Rhode Island receives the same support as a county in Alaska, Wyoming or Hawaii. This clearly does not consider the substantially higher cost of deploying service in areas of rugged terrain.
- The Explanation states, "We found no firm rule of how dense a 'rural' county is or why a particular geographic area should be considered 'High

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[311] Id. at 7.

[312] Id. at 7-8.

[313] Id. at 8.

[314] Id. at 7.

[315] Id. at 9.

Cost.'"[316] As extensively discussed in NASUCA's NRHC Comments,[317] the Census Bureau defines urban, and, by exclusion, rural. That is, a truly rural county or wire center is one that is 0% urban. This aspect should be captured by the density filter used in the Law Students' Model, however. As to cost, the Commission's data for both rural and non-rural carriers extensively define "high-cost."

- As a surrogate for cost (and possibly "rurality"), the Law Students' Model relied on "market results."[318] It appears those market results were "based on the results of the recent FCC Wireless Auction 73 results and by amount paid per capita."[319] Just as it is inappropriate to use the results of the spectrum auctions as an indication of how an auction of the POLR responsibility would work,[320] it is inappropriate to assume that the prices paid for wireless spectrum across a broad range of counties can be treated as a surrogate for the cost of deploying either POTS or broadband service.

The results of the Law Students' Model are also counter-intuitive. Among the jurisdictions that would see substantial increases in support amounts would be Ohio (to the tune of $69 million per year), Tennessee ($68 million), Virginia ($67 million), Kentucky ($63 million), and Texas ($62 million).[321] Among the jurisdictions losing

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[316] Id. at 8, n.8.

[317] NASUCA NRHC Comments at 21-28.

[318] USFon Comments, Appendix A at 8, n.8.

[319] Id. at 7.

[320] See NASUCA Comments on Reverse Auctions (April 17, 2008) at 20.

[321] Comparing USFon Comments, Appendix 2, to USAC 2007 Annual Report at 43. Also gaining would be Georgia, Pennsylvania, Illinois, Puerto Rico, New York, Michigan, Indiana, North Carolina, Maryland,

substantial support would be Kansas ($154 million), Alaska ($126 million), Mississippi ($120 million), and Wisconsin ($122 million).[322]

In the end, although the Law Students' Model represents an interesting academic exercise,[323] it is not very useful for planning the USF. It certainly should not be adopted as a replacement for the current mechanisms, which admittedly need substantial change.

XIV. CONCLUSION

The initial comments, despite their volume and variety, have not dissuaded NASUCA from any of the positions expressed in the initial comments, as summarized in their introduction. Further, nothing in the initial comments is particularly convincing that policies other than those expressed in NASUCA's initial comments need to be adopted, particularly the ILECs' insistence on additional funding. Unless and until an ILEC can show that its rural rates are at actual risk of becoming not reasonably comparable to urban rates in the absence of support – or that its current rates are not reasonably comparable given the current amount of support, the Commission should not award any additional support. And current high-cost support – in all of its forms – should be reviewed to ensure that it is needed to meet the statutory purposes of such support.

Rhode Island, Massachusetts, American Samoa, and West Virginia. These results are shown on Attachment 2 to these reply comments.

[322] Id. Also losing would be Louisiana, Oklahoma, Washington Nebraska, Iowa, California, South Dakota and Montana (all losing more than $50 million each); Arizona, Hawaii, North Dakota, Colorado, Minnesota, Wyoming, Oregon and Arkansas (all more than $25 million), in addition to New Mexico, the U.S. Virgin Islands, Maine, Missouri, Vermont, Alabama, Idaho, Guam, Nevada, New Hampshire, South Carolina, New Jersey, the Northern Marianas Islands, Utah, Florida, Connecticut and Delaware (in lesser amounts).

[323] USFon Comments, Appendix 1 at 1, n.1.

Respectfully submitted,

David C. Bergmann
Assistant Consumers' Counsel
Chair, NASUCA Telecommunications Committee
Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
Phone (614) 466-8574
Fax (614) 466-9475
bergmann@occ.state.oh.us

NASUCA
8380 Colesville Road, Suite 101
Silver Spring, MD 20910
Phone (301) 589-6313
Fax (301) 589-6380

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ATTACHMENT 1

COMPARISON OF QWEST PROPOSAL TO CURRENT SUPPORT RECEIVED BY NON-RURAL ILECS

State	Non-rural carrier(s)	2007 HCM support ($ millions)[324]	2007 IAS/ICL support ($ millions)[325]	2007 total support ($ millions)[326]	Support under Qwest proposal A repla-cing HCM ($ millions)[327]	Support under Qwest proposal B replacing HCM ($ millions)[328]
Alabama	South Central Bell[329]	24.1	9.9	34.0	47.6	0
	CenturyTel (Southern)	4.7	3.3	8.0	34.3	34.3
	CenturyTel (Northern)	8.3	2.0	10.3		
Alaska	ACS of Anchorage	0	4.3	4.3	0.7	0.7
Arizona	Qwest	0	12.3	12.3	17.1	17.1
Arkansas	Southwestern Bell	0	1.0	1.0	27.5	0

[324] Source: Monitoring Report, Table 3.30.

[325] Id.

[326] Totals may not be exact due to rounding.

[327] Includes all non-rural ILECs. For most states, it is impossible to segregate results for the non-RBOCs based on Qwest's presentation. Therefore, the cells are merged.

[328] Excludes AT&T and Verizon ILECs.

[329] ILEC names in this table are as they were in 2005. Principal changes would be to include as AT&T all the companies now under that banner.

State	Non-rural carrier(s)	2007 HCM support ($ millions)	2007 IAS/ICL support ($ millions)	2007 total support ($ millions)	Support under Qwest proposal A repla-cing HCM ($ millions)	Support under Qwest proposal B replacing HCM ($ millions)
California	Verizon (Contel)	0	5.7	5.7	64.6	0
	Verizon (GTE)	0	18.1	18.1		
	Pacific Bell	0	8.6	8.6		
	SureWest	0	2.0	2.0	0	0
Colorado	Qwest	0	19.2	19.2	28.3	28.3
Connecticut	SNET	0	1.0	1.0	2.0	0
DC	Verizon	0	0	0	0	0
Delaware	Verizon	0	0.3	0.3	1.5	0
Florida	Verizon	0	18.3	18.3	13.9	0
	Southern Bell	0	10.2	10.2		
Georgia	Southern Bell	0	17.4	17.4	31.92	0
Hawaii	Verizon	0	2.2	2.2	4.6	4.6
Idaho	Qwest	0	0	0	14.3	14.3
Iowa	Qwest	0	0.5	0.5	13.4	13.4
Illinois	Verizon	0	6.2	6.2	67.7	0
	Verizon (Contel)	0	3.4	3.4		
	Illinois Bell	0	0	0		
Indiana	Verizon	0	14.2	14.2	50.6	0
	Verizon (Contel)	0	5.0	5.0		
	Indiana Bell	0	0	0		
Kansas	Southwestern Bell	0	0.5	0.5	24.0	0

State	Non-rural carrier(s)	2007 HCM support ($ millions)	2007 IAS/ICL support ($ millions)	2007 total support ($ millions)	Support under Qwest proposal A repla-cing HCM ($ millions)	Support under Qwest proposal B replacing HCM ($ millions)
Kentucky	Cincinnati Bell	0.7	0.2	0.9	27.9	27.9
	ALLTEL	3.9	5.5	9.4		
	South Central Bell	9.1	6.6	15.7	46.8	0
Louisiana	South Central Bell	0	8.9	8.9	52.6	0
Maine	Verizon	1.6	0.1	1.7	21.5[330]	21.5
Massachusetts	Verizon	0	1.8	1.8	3.7	0
Maryland	Verizon	0	2.6	2.6	7.0	0
Michigan	Verizon	0	0.5	0.5	78.0	0
	Michigan Bell	0	0	0		
Minnesota	Qwest	0	0	0	24.7	24.7
Mississippi	South Central Bell	86.0	14.8	99.8	102.8	0
Missouri	Southwestern Bell	0	0	0	34.6	0
	CenturyTel (Central)	0	0.8	0.8	35.5	35.5
	CenturyTel (Southwest)	0	2.6	2.6		
Montana	Qwest	14.5	0.4	14.9	25.7	25.7
Nebraska	ALLTEL[331]	2.6	0	2.6	39.3	39.3
	Qwest	2.3	3.0	5.3		
North Carolina	Verizon	0	4.2	4.2	25.7	0
	Verizon (Contel)	0	5.0	5.0		
	Southern Bell	0	4.6	4.6		
	North State	0	2.8	2.8	0.03	0.03

330 Apparently based on FairPoint acquisition, as with New Hampshire and Vermont.

331 ALLTEL in Nebraska is the only carrier to receive only HCM support and no access support.

State	Non-rural carrier(s)	2007 HCM support ($ millions)	2007 IAS/ICL support ($ millions)	2007 total support ($ millions)	Support under Qwest proposal A repla-cing HCM ($ millions)	Support under Qwest proposal B replacing HCM ($ millions)
North Dakota	Qwest	0	0.5	0.5	6.4	6.4
Nevada	Central	0	1.6	1.6	1.5	1.5
	Nevada Bell	0	4.0	4.0	18.3	0
New Hampshire	Verizon	0	1.8	1.8	7.2	7.2
New Jersey	Verizon	0	0	0	0.2	0
New Mexico	Qwest	0	4.4	4.4	14.8	14.8
New York	Verizon	0	7.2	7.2	44.8	0
	Frontier Rochester	0	0	0	2.0	2.0
Ohio	Verizon	0	7.2	7.2	71.8	0
	Ohio Bell	0	0	0		
	Cincinnati Bell	0	0	0	5.8	5.8
	ALLTEL	0	2.0			
Oklahoma	Southwestern Bell	0	0.9	0.9	30.1	0
Oregon	Verizon	0	10.4	10.4	11.7	0
	Qwest	0	2.6	2.6	17.2	17.2
Pennsylvani a	Verizon North	0	3.4	3.4	26.5	0
	Verizon	0	9.0	9.0		
Puerto Rico	PRTC Central	0	9.1	9.1	4.0	4.0
	PRTC	0	49.0	49.0		
Rhode Island	Verizon	0	.035	.035	0.09	0
South Carolina	Verizon	0	4.9	4.9	22.3	0
	Southern Bell	0	4.9	4.9		
South Dakota	Qwest	1.5	.009	1.5	11.0	11.0
Tennessee	South Central Bell	0	6.8	6.8	45.0	0

State	Non-rural carrier(s)	2007 HCM support ($ millions)	2007 IAS/ICL support ($ millions)	2007 total support ($ millions)	Support under Qwest proposal A repla-cing HCM ($ millions)	Support under Qwest proposal B replacing HCM ($ millions)
Texas	GTE	0	18.7	18.7	129.5	0
	Contel	0	3.3	3.3		
	Southwestern Bell	0	0.09	0.09		
Utah	Qwest	0	1.2	1.2	4.8	4.8
Vermont	Verizon	7.7	2.0	9.7	15.1	15.1
Virginia	Contel	0	26.8	26.8	49.7	0
	Verizon	0	10.9	10.9		
Washington	Contel	0	2.1	2.1	11.0	11.0
	Qwest	0	2.6	2.6		
	Verizon	0	4.6	4.6	16.6	0
West Virginia	Verizon	21.9	7.6	29.5	37.9	0
Wisconsin	Verizon	0	0	0	28.0	0
	Wisconsin Bell	0	0	0		
Wyoming	Qwest	8.8	3.9	12.7	14.0	14.0

ATTACHMENT 2
Comparison of 2007 High Cost Universal Service Funding Disbursements To USFon Proposal

State	2007 Disbursements (a)	USFon Study Appendix 2 (b)		Increase/(Decrease)
	Total $	Monthly $	Annual $	$
Kansas	222,477,000	5,717,424	68,609,088	(153,867,912)
Alaska	161,356,000	2,907,664	34,891,968	(126,464,032)
Mississippi	283,404,000	13,616,681	163,400,172	(120,003,828)
Wisconsin	141,853,000	2,450,466	29,405,592	(112,447,408)
Louisiana	163,131,000	6,584,541	79,014,492	(84,116,508)
Oklahoma	129,185,000	3,756,905	45,082,860	(84,102,140)
Washington	97,505,000	2,004,434	24,053,208	(73,451,792)
Nebraska	106,178,000	3,919,698	47,036,376	(59,141,624)
Iowa	126,109,000	5,794,599	69,535,188	(56,573,812)
California	100,638,000	3,957,334	47,488,008	(53,149,992)
South Dakota	93,098,000	3,503,171	42,038,052	(51,059,948)
Montana	77,282,000	2,263,436	27,161,232	(50,120,768)
Arizona	70,919,000	1,820,351	21,844,212	(49,074,788)
Hawaii	51,864,000	261,601	3,139,212	(48,724,788)
North Dakota	84,771,000	3,142,712	37,712,544	(47,058,456)
Colorado	82,051,000	3,009,287	36,111,444	(45,939,556)
Minnesota	132,444,000	7,209,675	86,516,100	(45,927,900)
Wyoming	61,014,000	1,505,438	18,065,256	(42,948,744)
Oregon	80,970,000	3,770,433	45,245,196	(35,724,804)
Arkansas	126,294,000	8,332,031	99,984,372	(26,309,628)
New Mexico	67,388,000	3,731,556	44,778,672	(22,609,328)
Virgin Islands	25,685,000	643,953	7,727,436	(17,957,564)
Maine	36,567,000	1,553,264	18,639,168	(17,927,832)
Missouri	98,235,000	6,756,645	81,079,740	(17,155,260)
Vermont	31,408,000	1,365,072	16,380,864	(15,027,136)
Alabama	111,459,000	8,098,957	97,187,484	(14,271,516)
Idaho	54,069,000	3,435,644	41,227,728	(12,841,272)
Guam	10,792,000		-	(10,792,000)
Nevada	29,634,000	1,768,394	21,220,728	(8,413,272)
New Hampshire	9,365,000	435,141	5,221,692	(4,143,308)
South Carolina	74,186,000	5,877,324	70,527,888	(3,658,112)
New Jersey	1,664,000		-	(1,664,000)
Northern Marianas Islands	1,630,000		-	(1,630,000)
Utah	24,454,000	1,907,998	22,895,976	(1,558,024)
Florida	82,308,000	6,738,675	80,864,100	(1,443,900)
Connecticut	1,264,000		-	(1,264,000)
Delaware	245,000		-	(245,000)
District of Columbia	-		-	-
West Virginia	63,345,000	5,477,549	65,730,588	2,385,588

State	2007 Disbursements (a)	USFon Study Appendix 2 (b)		Increase/(Decrease)
American Samoa	3,370,000	558,521	6,702,252	3,332,252
Massachusetts	2,299,000	481,465	5,777,580	3,478,580
Rhode Island	31,000	322,357	3,868,284	3,837,284
Maryland	4,207,000	1,073,211	12,878,532	8,671,532
North Carolina	77,872,000	7,898,607	94,783,284	16,911,284
Indiana	71,734,000	8,972,404	107,668,848	35,934,848
Michigan	67,241,000	8,649,603	103,795,236	36,554,236
New York	52,542,000	7,454,869	89,458,428	36,916,428
Puerto Rico	135,026,000	14,488,060	173,856,720	38,830,720
Illinois	67,267,000	9,641,689	115,700,268	48,433,268
Pennsylvania	55,552,000	9,058,432	108,701,184	53,149,184
Georgia	112,636,000	14,371,485	172,457,820	59,821,820
Texas	245,735,000	25,631,726	307,580,712	61,845,712
Kentucky	96,931,000	13,260,879	159,130,548	62,199,548
Virginia	79,549,000	12,217,757	146,613,084	67,064,084
Tennessee	52,295,000	10,024,897	120,298,764	68,003,764
Ohio	46,205,000	9,592,102	115,105,224	**68,900,224**
TOTAL	**$4,286,733,000**	**$287,016,117**	**$3,444,193,404**	**$(842,539,596)**

(a) USAC 2007 Annual Report, page 43.
(b) Appendix 2 to Comments and Proposals of USFon, Inc. filed in WC Docket No. 05-337 and CC Docket No. 96-45.