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
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	
IP-Enabled Services	)	WC Docket No. 04-36

COMMENTS OF SANDWICH ISLES COMMUNICATIONS, INC.

INTRODUCTION AND BACKGROUND

Sandwich Isles Communications, Inc. (SIC) appreciates the opportunity to respond to the Commission's proposals for universal service and intercarrier compensation reform. SIC applauds and supports the Commission's current efforts to review appropriate public policy in these two areas. Critically important revenue streams emanate from such policy in support of continuing deployment of modern communications infrastructure throughout America. In fact, without "sufficient and predictable" universal service funds (USF), it would be impossible for SIC to fulfill the mandate of the Telecom Act of 1996, which established the principle in Section 254(b)(3) that "consumers in rural, insular, and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas."

SIC was established in 1995 to address the chronic inadequacy of telephone service in rural areas of Hawaii. The sole telecommunications provider in the state at that time was not providing adequate telecommunications service to many rural areas throughout the state including the rural areas designated as Hawaiian Home Lands (HHL). SIC was specifically formed to effectively address the unique challenges associated with providing affordable and adequate communications services to un-served HHL. SIC has made significant investments over the past 10 years to deploy critical infrastructure in much of rural Hawaii. The transport and local distribution communications infrastructure deployed has allowed residents of newly developing HHL to have access to modern communications services. This infrastructure is an important aspect of the State of Hawaii fulfilling its federal trust responsibility to ready the HHL for settlement, rural economic development, and other quality of life improvements, including distance learning and telemedicine.

Consistent with the Commission's statement in Appendix C, SIC agrees that Hawaii should be exempted from proposed policy and rule changes currently set forth by this Commission. Hawaii meets all the definitions of insular and SIC's service areas, which are scattered throughout the state, are high cost to serve. The difficulties of constructing terrestrial infrastructure throughout the volcanic island chain, the difficulties of linking the islands with 500 miles of undersea transport facilities, and the multitude of other high cost factors impacting Hawaii cause rural mainland costs to pale in comparison.

In addition, SIC should continue to operate under rate-of-return regulation and have the opportunity to be included in national tariffs and access revenue pooling, which enable it to continue to provide communications services at affordable rates. In support of these assertions, SIC respectfully submits the following comments for the Commission's consideration with respect to its proposals.

THE PROPOSED EXEMPTION FOR THE HAWAIIAN ISLANDS IS APPROPRIATE BASED ON THE UNIQUE CIRCUMSTANCES THAT ARE PRESENT

As stated in paragraphs 13 and 186 of Appendix C of the Commission's November 5, 2008 document package, the proposed rules include an exemption for carriers operating in Hawaii. SIC supports such an exemption due to the challenging insular, high cost, and environmental issues that directly impact SIC's service area.

A unique set of circumstances drive the need for long-term "sufficient and predictable" support for SIC. As a starting point, SIC's service obligation results from an Act of the U.S. Congress, i.e. passage of the Hawaiian Homes Commission Act in 1921. SIC plays a key role in the development of HHL, which is a mandate of the Act. New HHL subdivisions will continue to be developed by the State of Hawaii for many years to come in fulfillment of its trust obligations.

The continuing development of the HHL requires substantial investment in communications infrastructure. When SIC accepted the challenge of serving HHL, the existing infrastructure was inadequate and in most instances non-existent. There are few facilities-based communications carriers in Hawaii. The current distressed financial condition of Hawaiian Telcom is, in part, a reflection of their continued inadequate infrastructure present in the state today. When SIC began to serve the HHL, it was recognized that not only would deployment of modern local distribution facilities be required, but a statewide transport network would be necessary for the delivery of advanced services on HHL.

Costs to construct this critical infrastructure are very high, arguably higher than any other place in the continental United States. The attributes that make Hawaii a very sought after destination, i.e. isolation, rugged beauty, low population density, lack of commercial and industrialization, diverse biology, and balmy sea breezes, contribute to the high costs of serving rural customers. Virtually all materials and supplies necessary for construction of Hawaii's infrastructure arrive by ship or air. As an insular area, Hawaii is not served by other forms of transportation like rail or trucking. Depending on the supplier, many times shipping costs must be prepaid. There is no telecommunications equipment manufacturing in the state, and due to the small market there is an equally small number of suppliers with an extremely limited selection of equipment necessary for operating and maintaining a telecommunications system located in Hawaii. This results in a lack of competitive pricing and requires SIC to purchase and store many supplies which would not be necessary on the continental US. Hawaii's isolation similarly affects the costs to mobilize contractors and their equipment to construct needed infrastructure.[1]

Additionally, Hawaii is home to over 50% of the nation's endangered species. This requires compliance with very specific Federal and State studies and mitigation measures. In an ongoing project, the presence of endangered species also limits the period of time construction can take place. Failure to complete construction in the allotted time period means waiting five months until work can resume. During this period of inactivity the cost to keep the equipment in Hawaii is $50,000 per day. In another project, the contractor found that after completing the project, it was actually more cost effective to auction the equipment that had been shipped to Hawaii and then upon return to the continental US purchase new equipment.

[1] An ongoing project requires supplies from France, Japan, and the US, and contractors and equipment from eastern Canada, Michigan, and other parts of the US.

Costly and difficult construction coupled with limited revenues due to Hawaii's small population make it extremely difficult for SIC to find financing for its infrastructure projects. Lenders must be comfortable relying exclusively on federal USF for the repayment of infrastructure loans extended to SIC. Convincing a lender to rely on a program whose level of support is renewed annually for repayment of a loan that requires twenty to thirty years of payments is challenging at best and usually unsuccessful. Congress recognized the seriousness of this challenge when it separated "insular" areas in the Telecom Act. Without rules that result in "sufficient and predictable" USF support for insular areas, the communications infrastructure necessary to insure a universal level of service to citizens living in insular areas cannot be built.

Finally, the separation and tropical climate add costly challenges to the ongoing operations and maintenance of a statewide communications system once it is built.
SIC cannot fulfill its obligation as an Eligible Telecommunications Carrier and provider of last resort for HHL without continuing to receive support. Universal services cannot be provided at "comparable rates" without this support. Unlike the hundreds of rate-of-return incumbent LECs and other companies that benefit from USF, the majority of which have been in business for decades and have overcome the high initial costs required of any start-up company in a capital intensive industry, SIC is still in its infancy, the most risky and costly time for any business. Again, a long-term "sufficient and predictable" level of support is necessary to maintain SIC's financial viability.

RATE-OF-RETURN REGULATION PROVIDES AN APPROPRIATE REGULATORY FRAMEWORK FOR RURAL CARRIERS

SIC was formed to address the challenge of overcoming a lack of critical communications infrastructure that would be required to serve the needs of the HHL. Proposals such as the additional cost standard found in the Appendices sorely miss the mark for SIC and other rural carriers. On the other hand, rate-of-return regulation provides the necessary underpinnings for long-term "sufficient and predictable" support needed by rural carriers. SIC has incurred over $100 million of debt to construct needed infrastructure. Repayment of the debt and related interest expense is possible and correlates well with a rate-of-return support model. And for that reason, the USF support mechanisms that have been in place for the past 20 years, and have served rural America well, also work well for SIC. Many rural carriers, including SIC, have worked diligently toward fulfillment of their mission to provide universal service through the funding received from these support mechanisms.

So, at this point in time, SIC particularly subscribes to the continued availability of federal universal service programs that support continued robust infrastructure deployment. For Hawaii, maintaining the existing mechanisms until specific rules can be implemented for insular areas makes sense. For example, the current high cost loop fund algorithm has produced enough support during the past 10 years that SIC has been able to make the initial investments and maintain the requisite infrastructure needed to adequately serve customers.

NATIONAL TARIFFS AND POOLING ARRANGEMENTS ASSIST RURAL CARRIERS

The current National Exchange Carrier Association (NECA) tariff and pooling arrangement allows for nationwide averaging of costs and produces a reasonable rate scenario. Any modifications in current universal service and intercarrier compensation rules should allow for SIC's continued participation in the NECA tariffs and pools, although exempted from rule changes. The 25 years of experience possessed by NECA provide a much needed oversight resource that adds stability, a level of cost recovery assurance, and integrity to the costing process for SIC and other rate-of-return incumbent local exchange carriers.

CONCLUSION AND FURTHER OBSERVATIONS

SIC's circumstances are clearly unique, resulting in a significant long-term need for "sufficient and predictable" support. An exemption from new universal service and intercarrier compensation rules is justified. The effect of changes to the communications industry which have brought about the need for new compensation rules in the continental areas are not the same in insular areas.

Therefore, while the exemption is an appropriate transition for Hawaii, Alaska, and other insular areas at this time, the existing rules will also need to be updated to provide the "sufficient and predictable" support envisioned by Congress in the changing financial market. SIC requests the Commission move to rewrite the support rules for insular areas as soon as the rules for the continental US are complete.

Respectfully submitted

Via ECFS on 11/25/08

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