

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

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Implementation of the Local Competition	)	
Provisions in the Telecommunications Act of	)	
1996	)	CC Docket No. 96-98
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Developing a Unified Intercarrier Compensation	)	
Regime	)	CC Docket No. 01-92
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122

**REPLY COMMENTS OF THE  
BENTON FOUNDATION**

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**DECEMBER 22, 2008**

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**Attachment A: AN ACTION PLAN FOR AMERICA: Using Technology and  
Innovation to Address Our Nation's Critical Challenges**

## I. Introduction

Pursuant to the Notice of Proposed Rulemaking adopted by the Federal Communications Commission (“Commission”) November 5, 2008 seeking comments on ways to reform the universal service program,<sup>1</sup> the Benton Foundation<sup>2</sup> hereby submits these reply comments. Specifically, the Commission seeks comment on three specific proposals. The first is the Chairman’s Draft Proposal circulated to the Commission on October 15, 2008, which was placed on the Commission’s agenda for a vote on November 4, 2008.<sup>3</sup> The second is a Narrow Universal Service Reform Proposal circulated to the Commission on October 31, 2008. The third is a draft Alternative Proposal first circulated by the Chairman on the evening of November 5, 2008.<sup>4</sup>

For the past several years, the Federal-State Joint Board on Universal Service (“Joint Board”) and the Commission have been exploring ways to reform the Commission’s high-cost program. In the most recent high-cost support comprehensive reform efforts, the Joint Board issued a recommended decision on November 20, 2007.<sup>5</sup> The Joint Board recommended that the Commission address reforms to the high-cost program and make “fundamental revisions in the

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<sup>1</sup> *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Lifeline and Link Up; Universal Service Contribution Methodology; Numbering Resource Optimization; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Developing a Unified Intercarrier Compensation Regime; Intercarrier Compensation for ISP-Bound Traffic; IP-Enabled Services* (WC Docket No. 05-337; CC Docket No. 96-45; WC Docket No. 03-109; WC Docket No. 06-122; CC Docket No. 99-200; CC Docket No. 96-98; CC Docket No. 01-92; CC Docket No. 99-68; WC Docket No. 04-36). Released November 5, 2008. (“November 5 Report and Order”)

<sup>2</sup> The mission of the Benton Foundation is to articulate a public interest vision for the digital age and to demonstrate the value of communications for solving social problems. Benton is a longtime supporter of research on universal service and the potential of high-speed Internet connections for improving Americans’ lives.

<sup>3</sup> This item subsequently was removed from the Agenda on November 3, 2008. *See* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-286532A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-286532A1.pdf).

<sup>4</sup> The Alternative Proposal incorporates changes proposed in *ex parte* presentations.

<sup>5</sup> *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, 22 FCC Rcd 20477 (JB 2007) (*Comprehensive Reform Recommended Decision*).

structure of existing Universal Service mechanisms.”<sup>6</sup> Specifically, the Joint Board recommended, among other things, that the Commission should: 1) deliver high-cost support through a provider of last resort fund, a mobility fund, and a broadband fund<sup>7</sup>; 2) add broadband and mobility to the list of services eligible for support under section 254 of the Act<sup>8</sup>; 3) cap the Broadband Fund at \$300 million.<sup>9</sup> The Commission chose not to implement the Joint Board’s recommendations on November 5, 2008.<sup>10</sup>

## **II. The Commission Must Add Broadband to the List of USF Supported Services**

On November 5, 2008, the Commission failed to recognize that broadband has jumped all legal hurdles and, as the Joint Board recommends, the Commission must revise the current definition of supported services to include broadband Internet service. The law requires it and a growing consensus of research and stakeholders support it.

Broadband Internet service satisfies the statutory criteria for inclusion.<sup>11</sup> First, broadband Internet services are essential to education, public health, and public safety. The Internet is increasingly used for education, in significant part by sharing materials and audio and video streams in educational environments, as well as through informal educational content such as online news services that can be customized to reflect the user’s interests. The Internet is also increasingly used by health care professionals for sharing medical records and diagnostic information. Moreover, many residential users get health care advice from the many medical compendiums

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<sup>6</sup> *Comprehensive Reform Recommended Decision*, 22 FCC Rcd at 20478, para. 1.

<sup>7</sup> *Comprehensive Reform Recommended Decision*, 22 FCC Rcd at 20480–81, para. 11.

<sup>8</sup> *Comprehensive Reform Recommended Decision*, 22 FCC Rcd at 20481–82, paras. 12–18.

<sup>9</sup> *Comprehensive Reform Recommended Decision*, ¶29.

<sup>10</sup> *November 5 Report and Order* at ¶37.

<sup>11</sup> See 47 U.S.C. § 254(c)(1).

that are available online. In all of these applications, classical dial-up Internet access is marginally useful, and is often inadequate.

Second, broadband Internet service is subscribed to by a substantial majority of residential customers. More than half of the households in the United States currently subscribe, and at least one high speed provider is providing service in 99.6 % of the zip codes in the country.<sup>12</sup> Americans have made a clear judgment, consistent with the rest of the developed world, that broadband Internet access is an important component of modern life.

Third, broadband Internet access is being deployed in public telecommunications networks by telecommunications carriers. Millions of customers today purchase DSL service, the version of broadband Internet service that is customarily provided through copper telephone networks. Others purchase broadband Internet access through their wireless carriers.

Finally, including broadband Internet access in the list of supported services is consistent with the public interest, convenience, and necessity. Ubiquitous broadband access will improve the lives of millions of Americans, particularly in the coming years when Internet communications are expected to become an even more essential communications tool in daily life.

In sum, Americans have made a collective judgment that broadband is an important service. It must be eligible for support under Section 254, with the goal of making it available and affordable to all.

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<sup>12</sup> FCC, Industry Analysis and Technology Division, *High-Speed Services for Internet Access: Status as of December 31, 2006*, Table 15, released Oct., 2007.

On December 2, 2008, the Benton Foundation released *An Action Plan for America: Using Technology and Innovation to Address Our Nation's Critical Challenges*.<sup>13</sup> The report compiles persuasive research that indicates that connecting our nation to broadband will bring remarkable economic, social, cultural, personal, and other benefits to our citizens. Universal, affordable, robust broadband will:

- Stimulate economic growth and create good-paying jobs,
- Make America healthier and allow Americans to live longer, while at the same time saving our nation what some have estimated to be as much as \$165 billion a year,
- Improve the availability and quality of education,
- Help America address the threats that energy insecurity and environmental degradation pose to our nation,
- Connect local community firefighters, police officers, ambulance crews, and other emergency workers in a single wireless communications network and improve emergency response,
- Reinvigorate our democracy and make the government more transparent.

In short, the Benton Report demonstrates how costly it is to delay the migration to universal, affordable, robust broadband.

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<sup>13</sup> Rintels, Jonathan. *An Action Plan for America: Using Technology and Innovation to Address Our Nation's Critical Challenges*. Benton Foundation. 2008. ("Benton Report")

Also on December 2, a diverse array of America's communications providers, high technology companies, manufacturers, consumers, labor unions, public interest groups, educators, state and local governments, utilities, content creators, foundations, and many other stakeholders in America's broadband future came together to ask policymakers to ensure that every American home, business, and public and private institution has access to affordable high-speed broadband connections to the Internet.<sup>14</sup>

Finally, while laying out plans for a massive economic recovery effort on December 6, 2008, President-elect Barack Obama called for universal broadband.<sup>15</sup> President-elect Obama said, "It is unacceptable that the United States ranks 15th in the world in broadband adoption. Here, in the country that invented the Internet, every child should have the chance to get online, and they'll get that chance when I'm President – because that's how we'll strengthen America's competitiveness in the world." In response, a New York Times editorial declared, "Upgrading the Internet is a particularly smart kind of stimulus, one that would spread knowledge, promote entrepreneurship and make this country more competitive globally."<sup>16</sup>

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<sup>14</sup> US Broadband Coalition. A Call to Action for a National Broadband Strategy. (see <http://bb4us.net/id10.html>)

<sup>15</sup> Remarks of President-elect Barack Obama Radio Address on the Economy Saturday, December 6, 2008 (see [http://change.gov/newsroom/entry/the\\_key\\_parts\\_of\\_the\\_jobs\\_plan/](http://change.gov/newsroom/entry/the_key_parts_of_the_jobs_plan/))

<sup>16</sup> "Mr. Obama's Internet Agenda" New York Times. December 15, 2008.

### III. Two Step Process for Transitioning the USF to a Broadband-Only Fund

The Benton Foundation strongly concurs with Free Press<sup>17</sup> that the Commission should:

- Defer to the Joint Board’s expertise, and immediately issue an Order ruling that broadband is a supported service,
- Declare that the USF system will fully transition to a broadband-only fund,<sup>18</sup> and
- Issue a Further Notice of Proposed Rulemaking that solicits detailed transition plans and addresses transitioning the low-income, Lifeline and LinkUp programs to broadband-only as well.<sup>19</sup>

In addition to the Free Press proposal, the Benton Foundation urges the Commission to incorporate wireless into the transition. A Pew survey of Internet leaders, activists and analysts finds that they expect mobile devices will be the primary connection tool to the Internet for most people in the world in 2020.<sup>20</sup>

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<sup>17</sup> Free Press comments at p.23

<sup>18</sup> Free Press suggests a ten-year transition; the Benton Foundation would argue for a more ambitious timeline.

<sup>19</sup> Benton notes that 18 telecommunications companies and organizations wrote the Commission in support of using existing Lifeline and Link Up universal service programs to make broadband access more affordable for low income households.

<sup>20</sup> Janna Anderson and Lee Rainie. The Future of the Internet III. Pew Internet & American Life Project. December 14, 2008. (see [http://www.pewinternet.org/report\\_display.asp?t=270](http://www.pewinternet.org/report_display.asp?t=270))

However, as Mike Elgan recently wrote in ComputerWorld:<sup>21</sup>

The U.S. is plagued by spotty service, incompatible technologies and vast regions where no service is possible. The country that invented both the cell phone and the Internet is floundering as a third-rate cell phone Internet backwater....

It's time to stop slouching toward failure. Rather than idiotically following Europe and Asia into the future, we need to leapfrog them and put the U.S. back on top. We need nothing less than a new space race-scale effort to build the next-generation mobile data system in the United States....

High-speed, low-cost universal Internet access would probably jolt the economy in the same way the distribution of electrical power did, or the terrestrial Internet. It will surely pay for itself, times 10.

Whether we like it or not, the new "Space race" for next-generation mobile broadband is on. The only question is does the United States still have the vision to succeed?

### **III. Conclusion**

For the above stated reasons, the Commission should reject the three comprehensive universal service reform proposals under consideration. As written, the proposals are inconsistent with the Act and do not go far enough to address our national goal of universal, affordable, robust broadband. The Commission should, instead, add broadband to the list of services eligible for support under Section 254.

Respectfully submitted,

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<sup>21</sup> Elgan, Mike. "We need a mobile broadband space race" ComputerWorld. December 2008. (see <http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=9122720>)

## **Attachment A**

### **AN ACTION PLAN FOR AMERICA: Using Technology and Innovation to Address Our Nation's Critical Challenges**