

**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

REPLY COMMENTS

Of

PINE CELLULAR PHONES, INC. (PINE CELLULAR)

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REPLY COMMENTS

Pine Cellular is a small Eligible Telecommunications Carrier (ETC) that provides universal services in the southeast corner of tribal lands in Oklahoma. The area served by Pine Cellular is low density/high cost, the population is generally moderate to low income and a substantial number of Pine Cellular's customers are provided with Lifeline service. The network being deployed by Pine Cellular is capable of providing advanced mobile wireless services in the high cost tribal lands area it serves as an ETC.

I. HIGH-COST UNIVERSAL SERVICE SUPPORT

A. A Wireless ETC Costing Methodology Should Be Utilized To Determine High Cost Support For Small, Rural, Single State Wireless ETCs.

Pine Cellular is willing to provide a study to cost justify its receipt of high-cost universal service support. For large wireless ETCs, embedded cost studies may be difficult and costly¹, but for a small wireless ETC such as Pine Cellular, an embedded cost study such as the WiPan² is relatively simple and straightforward.³ As noted by CTIA in its comments⁴ however, the cost methodology discussed by the Commission in Appendix A of its Further Notice⁵ is flawed. Pine Cellular believes that WiPan would provide an

¹ *Further Notice* comments of CTIA dated November 26, 2008, pages 11 to 13.

² This model represents the combination of two prior cost methods, the Wireless Carrier Actual Cost (WiCAC) and the Panhandle wireless costing methodologies. WiCAC is a cost based methodology that is intended to replace the identical support rule as a means of more accurately identifying and targeting support for wireless ETCs. A joint wireless ETC cost methodology, based on both WiCAC II and the Panhandle Plan, now known as the "WiPan" costing methodology was filed with the FCC on August 8, 2008. WiPan provides a replicable, auditable and verifiable cost study methodology.

³ A small competitive ETC may be defined by the Commission as having 80% or more of its lines in rural areas within a state.

⁴ *Further Notice* comments of CTIA dated November 26, 2008, pages 13 to 14.

⁵ *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.

acceptable costing methodology for determining wireless ETC high cost universal service support, but if the Commission moves forward with its Further Notice Appendix A methodology, the following major areas should be modified:

- Spectrum costs are a real and legitimate cost to provide universal services and should be included in any wireless ETC costing methodology.
- Wireless ETC line counts, not ILEC line counts, should be used to determine the wireless ETC's cost per-line.

Ideally, the wireless ETC's cost per-line would be compared to a nationwide wireless cost per-line. However, Pine Cellular is not advocating that an embedded costing methodology be used for large, multistate cellular carriers. Instead this methodology should be employed for small wireless ETCs whose operations are within a state. As a consequence, a nationwide average wireless embedded cost per-line may not be available and therefore, use of the ILEC nationwide average cost per-line is likely a reasonable surrogate.

B. The Phase Out of Competitive ETC High Cost Support Should Not Apply To Small Competitive ETCs or It Should Be Concurrent With The Phase In Of Alternative Support. If It Is Not, The Length Of The Phase Out Should Be Extended For Small, Rural, Single State Competitive ETCs.

Appendix C of the Further Notice requires that support for all competitive ETCs be phased out over a five year period and indicates that there will be a Further Notice to seek comment on "...an appropriate universal service mechanism...focused on the

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, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262 (rel. Nov. 5, 2008) ("*Further Notice*").

development and maintenance of advanced mobile wireless services in high-cost and rural areas.”⁶

Pine Cellular proposes that for small competitive ETCs, this provision should not apply and that instead, small competitive ETCs should be able to immediately cost justify its support with the WiPan costing methodology. However, if the Commission adopts the Appendix C phase out rather than a cost based mechanism for determining high cost competitive ETC support, Pine Cellular agrees with CTIA that the “...phase-out of support currently received under the identical support rule and the phase-in of support provided under any successor mechanism(s) would occur concurrently so that both are complete at the end of a five-year period. The phase-out of support thus should not begin until the phase-in of support under the successor mechanism begins.”⁷

If the Commission does not adopt CTIA’s proposal, but instead begins the competitive ETC high cost support phase out in advance of adopting an alternative funding mechanism, it may be likely that support for small rural competitive ETCs could be lost without replacement funding from an alternative mechanism. Large multistate wireless ETCs may be able to absorb these losses as a result of revenues they generate in the densely populated areas they serve. However, small rural competitive ETCs that operate only in a single state generally do not serve major urban areas and thus revenues are not sufficient to offset high cost funding revenue losses and to recover the costs of network facilities placed as an ETC to serve rural high cost areas. Small rural competitive ETCs must rely only on the rural customers they serve, supplemented by current high-cost funding, to recover its high network costs. If the high cost funding is phased out at an

⁶ *Further Notice*, Appendix C, para. 52.

⁷ *Further Notice* comments of CTIA dated November 26, 2008, page 17, footnotes deleted.

accelerated rate (like five years), rural competitive ETCs will have less opportunity to recover the costs that were placed to serve rural customers. If the phase in of an alternative funding mechanism is not coincidental with the phase out of identical support funding, Pine Cellular requests that for rural single state competitive ETCs, that the phase out be extended to ten years. This will allow small rural competitive carriers with an extended opportunity to recover the network costs they placed in good faith under the current ETC rules.

II

BROADBAND LIFELINE AND LINKUP FUNDING

A substantial number of Pine Cellular's customers are low income lifeline customers that are provided service under the Commission's Tier 4 tribal lands lifeline funding provisions.⁸ Like CTIA⁹, Pine Cellular strongly supports the Commission's proposed broadband lifeline/linkup pilot program. This program would bring the benefits of broadband Internet access to consumers in both urban and rural areas that likely could not otherwise afford it. The economic and educational benefits are likely to be substantial for customers in rural areas and in particular to low income customers living on tribal lands.

The Further Notice would require that "...if an ETC currently provides or seeks to provide Lifeline voice service to an eligible household, and that ETC provides broadband Internet access service, the Pilot Program will double the current monthly subsidy for the Lifeline subscriber up to \$10 per month to offset the cost of broadband Internet access

⁸ *Further Notice*, Appendix C, fn 150.

⁹ *Further Notice* comments of CTIA dated November 26, 2008, page 19.

service.”¹⁰ The Commission notes that the \$10 level was selected because it is the maximum federal support under Tier 1 to Tier 3 of the existing Lifeline program.¹¹ However, the discount for Tier 4 Lifeline customers living on tribal lands is \$25. For Lifeline customers living on tribal lands, Pine Cellular requests that the Commission amend the proposed broadband Internet access Lifeline program to double the monthly subsidy up to \$25 per month. This additional support will assist in offsetting the cost of broadband Internet access for tribal lands consumers and would make the pilot broadband Internet access program fully consistent with the current Tiers 1 to 3 and Tier 4 tribal lands voice discount.

Respectfully submitted,

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¹⁰ *Further Notice*, Appendix C, para. 78, footnotes deleted.

¹¹ *Id.*, fn 191