

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



**REPLY COMMENTS**

Respectfully submitted,

National Telecommunications  
Cooperative Association

By: /s/ Daniel Mitchell  
Daniel Mitchell  
Jill Canfield  
Karlen Reed  
*Attorneys*

4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

Scott Reiter  
*Director, Industry Relations*

Richard J. Schadelbauer  
*Economist*

December 22, 2008

**TABLE OF CONTENTS**

**Page No.**

**I. SUMMARY..... 2**

**II. THE COMMISSION SHOULD ALLOW STATE COMMISSIONS TO VOLUNTARILY MOVE INTRASTATE ORIGINATING AND TERMINATING ACCESS RATES AND RATE STRUCTURES TO CAPPED INTERSTATE ACCESS RATE LEVELS AND STRUCTURES OVER A REASONABLE TIME PERIOD..... 3**

**III. COMMENTERS AGREE THAT THE COMMISSION LACKS LEGAL AUTHORITY UNDER SECTION 251(b)(5) TO SET INTRASTATE ACCESS RATES AND RECIPROCAL COMPENSATION RATES FOR VOICE TRAFFIC THAT TOUCHES THE PSTN. .... 6**

**IV. THE COMMISSION MUST REJECT THE USE OF REVERSE AUCTIONS FOR UNIVERSAL SERVICE DISBURSEMENT BECAUSE THEY ARE TOO RISKY AND WILL ULTIMATELY BE INEFFECTIVE, PARTICULARLY IN RURAL AREAS WITH PRE-EXISTING INFRASTRUCTURE. .... 8**

**V. THE COMMISSION SHOULD IMPOSE NEITHER THE TELRIC NOR THE INCREMENTAL COST STANDARD ON RATE-OF-RETURN CARRIERS WITHOUT CAREFULLY EXAMINING THE LONG-TERM IMPLICATIONS OF SUCH ACTION UPON THESE CARRIERS AND THEIR CUSTOMERS. .... 12**

**VI. THERE IS MUCH SUPPORT FOR THE PREMISE THAT VoIP SERVICE PROVIDERS SHOULD BE SUBJECT TO THE SAME INTERCARRIER COMPENSATION OBLIGATIONS AS ALL OTHER VOICE TRAFFIC. .... 16**

**VII. RETAINING THE CURRENT REVENUE-BASED USE CONTRIBUTION SYSTEM IS SUPERIOR TO A NUMBER-BASED METHODOLOGY. .... 18**

**VIII. THE BROADBAND LIFELINE PILOT PROGRAM HAS MERIT IN GENERAL AND CAN BE IMPROVED WITH A FEW MODIFICATIONS. .... 19**

**A. Background. .... 19**

**B. The Proposed Low-Income Subsidies Are Substantial But May Miss Rural Consumers Unless the Pilot Includes a Rural Set-Aside and Excludes a Requirement to Provide Devices..... 21**

**C. Amid The ETC Requirements, The Commission Should Require ETC Participants To Disclose Advertised Broadband Speeds And Not Require Provisioning The Entire Service Territory..... 24**

**D. Increasing The Size Of The Low-Income Portion Of The USF Through The Pilot Program May Strain Existing Auditing And Enforcement Actions. .... 27**

**IX. CONCLUSION. .... 28**

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



**REPLY COMMENTS**

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> responds to the initial comments filed November 26, 2008 regarding the Federal Communications Commission’s (Commission or FCC) Order on Remand and Report and Order and Further Notice of Proposed Rulemaking (FNPRM or Proposed Orders in the FNPRM) issued on November 5, 2008.<sup>2</sup>

<sup>1</sup> NTCA is a premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 585 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service rural local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a “rural telephone company” as defined in the Communications Act of 1934, as amended (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> *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-*

National Telecommunications Cooperative Association  
Reply Comments, December 22, 2008

WC Docket No. 05-337, CC Docket No. 96-45  
WC Docket No. 03-109, WC Docket No. 06-122  
CC Docket No. 96-98, CC Docket No. 01-92  
CC Docket No. 99-68, WC Docket No. 04-36  
CC Docket No. 99-200

Silence on any positions raised by parties in these proceedings connotes neither agreement nor disagreement with their positions or proposals. Unless specifically stated below, NTCA reasserts its positions described in its November 26, 2008, initial comments filed in these dockets.

## **I. SUMMARY.**

NTCA urges the Commission to adopt NTCA's universal service fund (USF) and intercarrier compensation (IC) reform recommendations and encourages the Commission to allow state commissions, voluntarily on a company-by-company basis, to reduce intrastate originating and terminating access rates to each company's interstate access rate levels. The Commission should not adopt a further reduction in interstate access rates using either the TELRIC standard or the Faulhaber incremental cost standard without further study. Commenters agree that adopting either rate methodology would have potentially devastating impacts, especially for rate of return (RoR) carriers. Many commenters also agree that the Commission does not have authority under Section 251(b)(5) to preempt state commissions from setting rates for local traffic and intrastate access traffic.

An overwhelming majority urge the FCC to reject the use of reverse auctions to determine a carrier's high-cost universal service fund disbursements. In addition, NTCA and many other commenters agree that allowing Interconnected Voice over Internet Protocol (VoIP) services to be exempt from access charges would completely undermine rational intercarrier compensation (IC) reform and create a super-arbitrage scenario that would halt the deployment, upgrades and affordability of broadband to consumers in living in high-cost, rural communities. Interconnected VoIP service should be subject to the same intercarrier obligations as other traffic

---

Bound traffic, CC Docket No. 99-68, and *IP-Enabled Services*, WC Docket No. 04-36; Order on Remand and Report and Order, and Further Notice of Proposed Rulemaking (rel. November 5, 2008) (FNPRM).

using the public switched telephone network (PSTN). The Proposed Order suggests that the Internet protocol (IP)/PSTN telephony is an enhanced or information service. This premise is false and based on mistaken assumptions.

The Commission should retain the current revenues-based contribution methodology for universal service fund assessments. The current contribution system is simply superior to a number-based methodology. Finally, NTCA and others suggest that the proposed broadband pilot program for low-income customers can be improved by setting aside half of the pilot program funds for rural low-income consumers and by clarifying the speed and device availability requirements. Commenters agree that permitting an eligible telecommunications carrier (ETC) to use pilot program funds to offer broadband internet access to part of its service territory, rather than the entire territory, will enhance participation in the pilot program and, consequently, deliver broadband Internet access to more rural consumers.

**II. THE COMMISSION SHOULD ALLOW STATE COMMISSIONS TO VOLUNTARILY MOVE INTRASTATE ORIGINATING AND TERMINATING ACCESS RATES AND RATE STRUCTURES TO CAPPED INTERSTATE ACCESS RATE LEVELS AND STRUCTURES OVER A REASONABLE TIME PERIOD.**

In its initial comments, NTCA proposed that the FCC allow state commissions to reduce voluntarily, on a company-by-company basis, intrastate originating and terminating tariffed access rates to interstate tariffed access rate levels over a reasonable period of time (5 years) and at the same time cap interstate originating and terminating access rates in order to keep interstate access rates from increasing. NTCA also proposed that the Commission provide supplemental federal USF support to offset lost intrastate access revenues, not recovered through any increases in the Federal Subscriber Line Charge (SLC) up to \$1.50 and any increases in local end-user

rates up to a Federal Benchmark (FB) rate of \$20. The FB rate would include local residential rates, state and federal SLCs and SLC-like charges, mandatory Enhanced Area Service (EAS) charges and per line state universal service fund collections. SLC increases, if any, should be limited to what is required for the company to reach the Federal Benchmark Rate and the overall SLC cap.<sup>3</sup>

NTCA believes that this approach “appropriately recognizes the states’ responsibility for setting intrastate access rates, while providing an incentive for states to collaborate with the Commission to achieve the goal of reforming IC.”<sup>4</sup> The beneficiaries from such a move would be interexchange carriers (IXCs) - who benefit by paying lower access rates - and end-use customers - who will pay lower retail long distance rates.<sup>5</sup>

NTCA continues to oppose the mandatory requirement in the Commission’s proposals that would compel states to adopt a state-wide, uniform reciprocal compensation rate set by the Commission.<sup>6</sup> NTCA questions the Commission’s statutory authority to require states to reduce their intrastate toll access charges, and urges the Commission to “seek comment in a further notice on whether further rate unification is appropriate or necessary, what methodology and legal basis should be used for unifying IC rates further, and the success of this voluntary approach to intercarrier compensation reform.”<sup>7</sup>

Several commenters agree. USTelecom calls the movement of intrastate access rates to interstate access levels “the correct first step, and will accomplish the single largest step towards a rationalized regime that meets the Commission’s and the industry’s goals of efficient,

---

<sup>3</sup> NTCA Comments, p. 7.

<sup>4</sup> *Id.* at 8.

<sup>5</sup> *Ibid.*

<sup>6</sup> FNPRM, Appendix A, p. A-87; Appendix C, p. C-85.

<sup>7</sup> NTCA Comments, p. 8.

compensatory and sustainable rates.”<sup>8</sup> However, USTelcom urges that any subsequent steps “should be subject to the recommendations of the Universal Service Joint Board...and further review by the Commission.”<sup>9</sup>

NECA notes that moving intrastate access rates to interstate levels “would eliminate a major source of rate arbitrage” and “avoids legal issues likely to arise with any attempt by the Commission to preempt state regulation of intrastate access charges or to force carriers to adopt a single uniform rate based on a new, untested additional costs standard.”<sup>10</sup> Noting that the Commission’s proposals presented in Appendices A and C call for interconnection rates that are uniform on a state-wide basis, and symmetrical between interconnecting carriers, NECA observes that “[u]niform or symmetrical rates make no sense...when networks have different cost structures. Indeed, it is somewhat bewildering why the Commission would propose in one portion of the *Further Notice* to base Universal Service support for CETCs on individual costs, while at the same time proposing a methodology for intercarrier compensation that deliberately seeks to avoid individual costs in establishing rates.”<sup>11</sup> Moving access rates to near zero levels would create artificial price incentives, and slow the inevitable movement away from the circuit-switched network: “near zero rates would make the legacy circuit-switched network too economically enticing for retail service providers, who use rural networks to deliver their services, to leave.”<sup>12</sup>

---

<sup>8</sup> U.S. Telecom Comments, p. 3.

<sup>9</sup> *Id.* at 4.

<sup>10</sup> NECA Comments, p. 5.

<sup>11</sup> *Id.* at 25.

<sup>12</sup> *Id.* at 26.

NTCA concurs with these comments. The FCC should allow state commissions, on a company-by-company basis, the flexibility to voluntarily move intrastate originating and terminating access rates to interstate levels over a reasonable time period.<sup>13</sup>

**III. COMMENTERS AGREE THAT THE COMMISSION LACKS LEGAL AUTHORITY UNDER SECTION 251(b)(5) TO SET INTRASTATE ACCESS RATES AND RECIPROCAL COMPENSATION RATES FOR VOICE TRAFFIC THAT TOUCHES THE PSTN.**

The National Association of Regulatory Utility Commissioners (NARUC) joins NTCA in questioning the Commission’s statutory authority to reduce intrastate toll access charges.

NARUC notes that “[t]his attempt to expand § 251(b)(5) reciprocal compensation to include intrastate access charges flounders on any examination of either the legislative history or the unambiguous statutory text.”<sup>14</sup> According to NARUC, the Commission has based its argument upon “the flawed rationale of the remand order that accompanies the FNPRM. NARUC expects to participate in the inevitable, and likely successful, appeal of that remand decision.”<sup>15</sup> The bottom line: “The FNPRM’s approach illegally constrains State retail rate design options and restricts States’ ability to set intrastate rates based solely upon State-determined reasonable costs of service.”<sup>16</sup> {*Emphasis retained from original.*}

NARUC further states that the Commission’s Proposed Orders “directly preempt State access charge regimes, and also necessarily unlawfully constrain State retail end-user rate design authority.”<sup>17</sup> NTCA agrees with NARUC that the key to determining the scope of jurisdiction

---

<sup>13</sup> For the NECA pool, the cap would reflect the composite pool average switched access rate level. NECA would continue to have the ability to assign pool study areas to rate bands as it does currently.

<sup>14</sup> NARUC Comments, p. 7.

<sup>15</sup> *Id.* at 6.

<sup>16</sup> *Id.*, p. 11.

<sup>17</sup> NARUC Comments, p. 6.

rests in Congressional intent and the context of the industry.<sup>18</sup> Section 251(b)(5) does not include the use of reciprocal compensation for non-local access traffic, nor does it apply to intrastate exchange access service.

The National Association of State Utility Consumer Advocates (NASUCA) asserts that the Commission should not preempt the state commissions on intrastate intercarrier compensation.<sup>19</sup> The Nebraska Rural Independent Companies likewise assert that designating the pricing parameters so tightly is “tantamount to rate-setting and for that reason, exceeds the Commission’s authority.”<sup>20</sup> These commenters agree with NTCA that the Commission does not have statutory authority to set intrastate access rates or reciprocal compensation rates for voice traffic that touches the public switched telephone network (PSTN).

Embarq accurately noted that Section 251(b)(5) clearly applies to local exchange carriers and addresses reciprocal (two-way) compensation arrangements. NTCA agrees with Embarq that the Proposed Orders improperly attempt to extend Section 251(b)(5) reciprocal compensation obligations to all traffic, including one-way ISP-bound traffic.<sup>21</sup> Using Section 251(b)(5) as a tool to set prices for all traffic would, as Embarq suggests, be arbitrary and capricious. The Commission should not reach for jurisdiction over intrastate access and local reciprocal compensation rates. As the Massachusetts Department of Telecommunications and Cable correctly observes: “The FCC would overstep its Congressionally delegated authority if it attempted to apply § 251(b)(5) to intrastate traffic as well.”<sup>22</sup>

---

<sup>18</sup> *Id.* at 7; *Louisiana Public Service Commission v. FCC*, 476 U.S. 355, 371-372 (1986).

<sup>19</sup> NASUCA Comments, p. 8.

<sup>20</sup> Nebraska Rural Independent Companies Comments, p. 8.

<sup>21</sup> Embarq Comments, p. 30; FNPRM ¶ 7.

<sup>22</sup> Massachusetts Department of Telecommunications and Cable Comments, p. 7

Windstream and AT&T feebly attempt to support the Proposed Order's rationale in extending Section 251(b)(5) to all traffic. These carriers claim that the "massive arbitrage" will resume unless the Commission unifies all rates, as AT&T asserts, and promise that the arbitrage will stop if the Commission lowers all rates, as Windstream believes.<sup>23</sup> Neither may be correct so the Commission should not heed their siren calls.

CompTel agrees with NTCA that the Commission has no statutory authority to set rates for intrastate services.<sup>24</sup> CompTel cites the U.S. Supreme Court's 2002 decision of *Verizon v. FCC* for the proposition that the Commission is attempting to do exactly what the Supreme Court in 2002 said the Commission could not accomplish – interfering with state commission authority to set intrastate rates.<sup>25</sup> NTCA agrees. Cincinnati Bell succinctly captures the Proposed Order's effect: the Commission's "novel interpretation" of Section 251(b)(5) is contrary to the express language of the Act and beyond the Commission's jurisdiction.<sup>26</sup> NTCA and other commenters urge the Commission to refrain from ruling that all voice traffic falls within the Commission's jurisdiction pursuant to Section 251(b)(5).

#### **IV. THE COMMISSION MUST REJECT THE USE OF REVERSE AUCTIONS FOR UNIVERSAL SERVICE DISBURSEMENT BECAUSE THEY ARE TOO RISKY AND WILL ULTIMATELY BE INEFFECTIVE, PARTICULARLY IN RURAL AREAS WITH PRE-EXISTING INFRASTRUCTURE.**

As NTCA noted in its initial comments,<sup>27</sup> the concept of using reverse auctions to determine universal service funding disbursement has been soundly rejected by dozens of commenters filing hundreds of pages of thoughtful comments in the Commission's multiple

---

<sup>23</sup> AT&T Comments, p. 12; Windstream Comments, p. 17.

<sup>24</sup> CompTel Comments, p. 7.

<sup>25</sup> *Id.* at 8; *Verizon v. FCC*, 535 U.S. 467, 489 (2002).

<sup>26</sup> Cincinnati Bell Comments, p. 3.

<sup>27</sup> NTCA Comments, p. 30.

proceedings on this topic over the course of the past twenty-four months.<sup>28</sup> Yet based upon the proposed use of reverse auctions in the three potential plans put forward by the Commission, it would appear as if all of these voices have gone unheard. NTCA continues to assert that reverse auctions are simply too complex, too risky and too costly to serve as a legitimate means for determining the distribution of high cost support.

In these times of economic turmoil, securing financing for new projects presents more of a challenge than ever before for rural telecommunications carriers. The Commission must seek to avoid imposing any policies upon these carriers that would make lenders even less likely to provide them with critical funding. Yet by dramatically increasing the level of overall uncertainty, the imposition of reverse auctions would do just that.

Comments filed with the Commission earlier this year by two critical sources of rural carrier funding - CoBank and the Rural Telephone Finance Cooperative (RTFC) - sharply underscore the level of their concern. For example, CoBank wrote:

Rural ILECs rely heavily on debt capital to maintain and improve rural infrastructure. The repayment of these loans depends on access to universal service support and existing cost recovery mechanisms. Access to debt capital could be significantly reduced under a reverse auction system. Lenders require a high degree of certainty regarding a borrower's capacity to repay debt. There is a direct correlation between the ability of a borrower to repay debt capital and the amount of capital a lender is willing to make available to a borrower. The greater the level of uncertainty about future cash flow, the lower the amount of debt capital available to a borrower. If a telecommunications provider is faced with the

---

<sup>28</sup> *In the Matter of Federal-State Joint Board on Universal Service Seeks Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 06J-1, released August 11, 2006 ("Reverse Auction Proceeding."), NTCA Initial Comments filed October 10, 2006; Reply Comments filed November 8, 2006. *In the Matter of Federal-State Joint Board on Universal Service Seeks Comment on the Long Term, Comprehensive High-Cost Universal Service Reform*, WC Docket No. 05-337, CC Docket No. 96-45, rel. May 1, 2007. NTCA Initial Comments filed May 31, 2007; Reply Comments filed July 2, 2007. *In the Matter of High-Cost Universal Service Support and the Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-5, rel. January 29, 2008 ("Federal-State Joint Board NPRM"). NTCA Initial Comments filed April 17, 2008; Reply Comments filed June 2, 2008.

possibility of losing access to universal service support funding through a reverse auction system, lenders will restrict the amount of debt made available. This lack of access to capital could impair the ability of service providers of all types to meet the growing telecommunications needs of rural Americans.<sup>29</sup>

RTFC similarly expressed concern:

[I]n order to make a loan, even a member-owned cooperative such as RTFC must use all possible due diligence in ascertaining that a prospective borrower's revenue streams are adequate for the life of the projected loan. The possibility of relatively sudden and possibly total loss of high-cost universal service support at some point in the life of the loan creates an insurmountable level of uncertainty that the borrower will be able to service its debt. This consequence of reverse auctions would not seem to meet the Telecom Act's requirement that universal service support be "specific, predictable and sufficient."<sup>30</sup>

Initial commenters in the current proceeding have only added to the already voluminous public comment on this issue, as numerous parties again expressed their grave concerns about the Commission's proposed use of reverse auctions. One new wrinkle this time around is that the Commission proposes rescinding high cost universal service support from those incumbents who are unable to provide broadband service to 100% of the customers within their service area. This would presumably also mean stripping the incumbent of its carrier of last resort (COLR) obligations. NASUCA correctly points out, "The FCC lacks the authority to preempt states in these intrastate ratemaking matters, nor should it attempt to do so...This will be extremely disruptive for consumers, and not likely to be acceptable to any state regulatory commission."<sup>31</sup>

The USA Coalition deems the Commission's proposals in Appendices A and C of the NPRM "illogical and unrealistic, unless the true objective is to keep all competitive ETCs from receiving universal service support while freeing the incumbent LEC from the broadband

---

<sup>29</sup> Federal-State Joint Board NPRM, Initial comments of CoBank, p. 4.

<sup>30</sup> Federal-State Joint Board NPRM, Initial comments of RTFC, pp. 4-5.

<sup>31</sup> NASUCA Comments, pp. 30-31.

requirement altogether.”<sup>32</sup> They point to the provision that says that if no bidders agree to provide broadband throughout the incumbent’s service territory at or below the incumbent’s level of support (and, as NASUCA notes, “[I]f the incumbent could not accomplish ubiquitous broadband coverage with that amount of support, why should it be expected that another carrier would?”<sup>33</sup>) the incumbent carrier would retain its high-cost support while the Commission “examines these issues” and “determine(s) what further actions should be taken.”<sup>34</sup> The USA Coalition asserts that the Commission’s reverse auction proposal would actually have the opposite effect than that intended: “[T]he proposal creates disincentives for incumbent LECs to deploy broadband services since they ultimately are likely to be relieved of the broadband mandate if they do not.”<sup>35</sup>

The National Exchange Carrier Association (NECA) believes that “reverse auctions are unworkable as a practical matter and are likely to embroil the Commission, carriers and state regulators in unending legal and administrative disputes.”<sup>36</sup> Further, the use of reverse auctions would “eliminate the long-term financial stability required by financial institutions to fund network build-out in rural areas; would severely limit carrier incentives to invest in network upgrades, new technologies and the provision of advanced services; and would place service quality in jeopardy, including services that support public safety, homeland security, and disaster recovery.”<sup>37</sup> Surely these are not outcomes the Commission wishes for rural America.

---

<sup>32</sup> USA Coalition Comments, p. 19.

<sup>33</sup> NASUCA Comments, p. 31.

<sup>34</sup> FNPRM, p. A-25.

<sup>35</sup> USA Coalition Comments, pp. 19-20.

<sup>36</sup> NECA Comments, p. 16.

<sup>37</sup> *Id.* at 16-17.

These are but a few of the voices within the resounding chorus that has been urging the Commission to reject the use of reverse auctions to determine universal service disbursement for the past several years. NTCA once again urges the Commission to reject reverse auctions because they will not facilitate broadband deployment in high cost rural areas and will put rural consumers at significant risk. Simply put, “reverse auctions are an unacceptable solution to the problem of how to most efficiently disburse high-cost USF support dollars.”<sup>38</sup>

**V. THE COMMISSION SHOULD IMPOSE NEITHER THE TELRIC NOR THE INCREMENTAL COST STANDARD ON RATE-OF-RETURN CARRIERS WITHOUT CAREFULLY EXAMINING THE LONG-TERM IMPLICATIONS OF SUCH ACTION UPON THESE CARRIERS AND THEIR CUSTOMERS.**

As NTCA stated in its initial comments, the Commission should not adopt a further reduction from interstate access rates in this proceeding without further study of the implications of adopting a different rate methodology. Both the TELRIC standard and the Faulhaber incremental cost standard, as proposed in the FNPRM, would have potentially devastating impacts for RoR rural carriers.

NTCA has long asserted that TELRIC simply will not work for rural RoR carriers. Under the TELRIC standard, similarly situated companies can end up with significantly different rates. In addition, if rates were to be based on the “additional costs” standard, the switched access NECA pool would no longer function as it does today, as the pool would not receive billed access revenues equal to the settlement revenues to be paid out of the pool.

Because it would drive rates to near-zero levels, the proposed Faulhaber standard would not reflect RoR carriers’ unique cost and demand characteristics. The ultimate result would be that rural LECs would have tremendous difficulty maintaining and investing in their rural

---

<sup>38</sup> NTCA’s Reverse Auction Proceeding Initial Comments, p. 4.

networks. Rural carriers would be forced to recover costs elsewhere, thus distorting the relative pricing of their services.

Several of the parties commenting in this proceeding concur. CenturyTel notes that “taking access rates to zero or near-zero levels may help various carriers, but ultimately, only at the expense of most end users.”<sup>39</sup> Thus, “the level of any unified rate needs to be set correctly for rural carriers, establishing a sufficiently long transition to allow carriers to manage revenues and expenses over time and to ensure that consumer rates are affordable.”<sup>40</sup>

NASUCA deems the proposed incremental cost standard for setting intercarrier compensation rates “unreasonable, unfair and inconsistent with reasonable market practices.”<sup>41</sup> While the proposed pricing standards would set prices equal to marginal costs, NASUCA makes a compelling case that the unique qualities of the telephone industry make this ill-advised:

[T]he general rule that price should equal marginal cost is reasonable for industries that produce single products or multiple products with separable cost functions and where incremental cost is positively related to the quantity produced. **These conditions do not exist in the telephone industry.** Instead, the telephone industry is characterized by firms that have relatively high network costs, non-separable cost functions, extremely low and declining incremental service cost, and a large proportion of costs as common cost.<sup>42</sup> *{Emphasis retained from original.}*

Common costs are real costs. Common cost recovery is a necessity—not just for telecommunications companies, but for any company hoping to remain in business. But as NASUCA points out, the proposed incremental cost standards would arbitrarily compel rural

---

<sup>39</sup> CenturyTel Comments, p. 9.

<sup>40</sup> *Id.* at 9-10.

<sup>41</sup> NASUCA Comments, p. 9.

<sup>42</sup> *Id.* at 9-10.

carriers to recover all of their common costs from their retail customers, i.e., end users, and none from their wholesale customers, i.e., other carriers.<sup>43</sup>

AT&T, on the other hand, advocates use of the additional cost standard, saying that it “will move the industry in the right direction by compelling most carriers to rely primarily on their own end users for recovery of their network costs rather than on other carriers, and ultimately, *their* end users”<sup>44</sup> (*Emphasis retained from original*). There are several flaws within AT&T’s reasoning, however, as it applies to rural carriers. First, rural carriers typically have fewer end use customers over which to spread these additional costs. Generally speaking, average income levels are lower in rural than non-rural areas. Given current economic conditions, additional financial burdens placed upon these customers would pose serious hardship. In addition, as these other carriers are at least partly responsible for incurring these costs in the first place, shouldn’t their customers be asked to share some of the burden? If both parties benefit from the call—and, presumably, they do, otherwise the call would not be made in the first place—then both should share at least some portion of the associated costs.

AT&T speaks vaguely of carriers’ “inefficiencies” (“This methodological shift will thus make each carrier more accountable to its subscribers for any inefficiencies in its network and will let customers, rather than intercarrier compensation rules, pick winners and losers in the marketplace.”<sup>45</sup>) Shared and common costs are not by definition “inefficient”—they are a normal, if sometimes inconvenient, cost of doing business. Wishing them away, or arbitrarily imposing them on one class of a carrier’s customers rather than another, will not serve to make them any less real.

---

<sup>43</sup> *Id.* at 11.

<sup>44</sup> AT&T Comments, p. 11.

<sup>45</sup> *Id.* at 5.

ITTA correctly recognizes that the Commission’s proposed additional cost standard “eviscerates reasonable cost recovery from carriers’ termination of traffic.”<sup>46</sup> ITTA further notes that the proposed standard presupposes the incremental costs of a modern soft switch, and thus “is based on the cost of networks that are not deployed.”<sup>47</sup> ITTA recommends that “existing methods should be used until such time as the new ‘incremental cost’ proposal can be thoroughly vetted to ensure economic reasonableness and feasibility.”<sup>48</sup> NTCA concurs.

While NTCA agrees with Verizon that “the state proceedings to apply the new additional cost standard will likely be costly, complex, burdensome, and protracted, and will ‘divert scarce resources from carriers’ that would otherwise be used to spur competition and bring new products and new technologies to consumers,”<sup>49</sup> NTCA rejects Verizon’s subsequent conclusion that the solution is imposition of a nationwide, uniform \$0.0007 per minute terminating access rate. As NTCA has noted previously, differentiated rates are efficient “because they allocate resources according to the cost associated with conducting business in different geographies.”<sup>50</sup> The laws of supply and demand should establish prices in a market economy, not government fiat.

NTCA reasserts that reducing intrastate tariffed access rates to interstate levels will address the most significant rate disparities, and will allow the Commission sufficient time to carefully and fully evaluate the next IC reform steps. At a minimum, the Commission should conduct a comprehensive cost-benefit analysis that would take into account the full economic costs and benefits of any proposed plans. The stakes are simply too high to act in haste.

---

<sup>46</sup> ITTA Comments, p. 10.

<sup>47</sup> *Id.* at 12.

<sup>48</sup> *Id.* at 13.

<sup>49</sup> Verizon Comments, p. 48.

<sup>50</sup> NTCA Comments, p. 42.

**VI. THERE IS MUCH SUPPORT FOR THE PREMISE THAT VoIP SERVICE PROVIDERS SHOULD BE SUBJECT TO THE SAME INTERCARRIER COMPENSATION OBLIGATIONS AS ALL OTHER VOICE TRAFFIC.**

In its comments, NTCA points out that interconnected VoIP is a direct substitute for traditional voice telephone service. As such, these providers should be subject to the same intercarrier compensation obligations, including the payment of access charges, as any other traffic using the PSTN. Most commenters support this common-sense conclusion.<sup>51</sup> VoIP service providers heavily market their services as direct replacements for traditional telephone services. Customers cannot tell the difference between the two. No commenter attempts to identify service characteristics that purport to make IP/PSTN services distinct from traditional telephony. There is no way to rationally distinguish the two. Interconnected interexchange VoIP calls use the network in exactly the same way as traditional long-distance telephone calls and should be subject to the same access obligations.

The Proposed Order and the commenters supporting it argue that IP/PSTN telephony is an “enhanced” or information service based on a mistaken assumption that such traffic involves a net protocol conversion between end-users. The finding is decisive, but there is no explanation or description in the FCC’s proposed order or the supporting comments of the supposed “net protocol conversion.” In fact, there is no net protocol change between end users. It is a voice call between two telephones. The justification for the Commission’s determination is absent.

---

<sup>51</sup> See *e.g.*, comments of: NECA; OPASTCO; Iowa Telecommunications Association; Missouri Small Telco Group; Rural ETCs of Arkansas; Toledo Telephone Company; Public Service Telephone Company Inc., South Slope Cooperative Telephone Co., Inc., Townes Telecommunications, Inc., and Venture Telecommunications Cooperative; Texas Statewide Telephone Cooperative, Inc; Embarq; CenturyTel; Nebraska Rural Independent Companies; NASUCA; Massachusetts Department of Telecommunications and Cable; NARUC; Ohio PUC; and Washington Independent Telecommunications Association and Oregon Telecommunications Association Joint Comments (WITA and OTA).

The statutory definition of “information services” also specifically excludes any capabilities used for the “management, control or operation of a telecommunications system or the management of a telecommunications service.”<sup>52</sup> This exception is apparently deemed irrelevant by commenters supporting the FCC’s proposed order, but none attempt to explain why or how.

The policy implications of classifying VoIP as an information service are both dire and immediate. Despite no difference in the functionality of service, interconnected carriers would be motivated to reclassify and reconfigure their current voice service to VoIP simply to avoid paying legitimate access charges and universal service contributions. Not only would this amount to a windfall for many large IXCs, it would be devastating to RoR rural local exchange carriers (LECs) who depend on access charges to cover the cost of the use of their networks. It would throw the interconnection process into disarray. It would also significantly increase the size of the residual access cost recovery mechanism (RM), or if the lost revenue recovery is not recovered through the RM, substantially increase end user rates in rural areas, to the detriment of rural consumers.

There is no reasoned explanation in the FCC’s proposed order or in the comments for a substantial departure from prior FCC findings and precedent regarding VoIP telephony. Permitting interconnected VoIP providers to be exempt from the intercarrier compensation regime will result in the disparate treatment of voice services. As Embarq points out, a Commission order on this matter “would violate the Equal Protection, Due Process, Takings and Commerce Clauses of the Constitution as well as being plainly an arbitrary and capricious

---

<sup>52</sup> 47 U.S.C. § 153(20).

classification under the Administrative Procedures Act.”<sup>53</sup> As NECA so eloquently puts it, “[s]uch a determination, if made, will almost certainly be reversed by a reviewing court as arbitrary and capricious.”<sup>54</sup>

## **VII. RETAINING THE CURRENT REVENUE-BASED USF CONTRIBUTION SYSTEM IS SUPERIOR TO A NUMBER-BASED METHODOLOGY.**

In our comments NTCA strongly urged the Commission to retain the current revenues-based contribution methodology for USF assessments.<sup>55</sup> NTCA reiterates its comments and notes that on December 15, 2008 the Commission proposed a reduction in the contribution factor to 9.5% for the First Quarter 2009. This is a decrease of 16% from Fourth Quarter 2008 and, with the exception of one quarter in 2006, is the lowest factor since 2004. NASUCA has consistently and repeatedly opposed changing the universal service contribution mechanism.<sup>56</sup>

Revenues are superior to numbers and connections and revenues should continue to be the basis for determining contributions as long as the assessment does not produce an unreasonable result. The best way to keep the factor reasonable is by controlling support to Competitive Eligible Telecommunications Carriers (CETCs), expanding the base of contributors to include all providers who benefit from interconnection with the PSTN, and including the assessment of all retail revenues associated with interstate telecommunications. One of the best reasons to assess revenues is that they reflect the value consumers place on competing services without regard to the technology used to deliver the service. In other words, revenues are truly technology neutral. Revenues are also self-correcting, because as consumers switch services and/or providers, revenues measure what the consumer is actually buying.

---

<sup>53</sup> Embarq Comments, p. 40.

<sup>54</sup> NECA Comments, p. 35 (footnote omitted).

<sup>55</sup> NTCA Comments, p. 28.

<sup>56</sup> NASUCA Comments, p. 39.

Furthermore, the primary driver for the telecommunications industry is moving away from voice toward broadband. It does not make sense to be moving to numbers, which are primarily related to voice communications. Also, revenues reflect the value consumers place on various communications services. Revenues reflect the balance consumers strike between competitive offerings, old and new technologies, and changes that occur over time. Contributions based on other measures, including numbers and connections, would reflect values at the time of adoption and would require frequent periodic adjustments. The Commission should therefore continue to assess revenues for contributions to universal service.

### **VIII. THE BROADBAND LIFELINE PILOT PROGRAM HAS MERIT IN GENERAL AND CAN BE IMPROVED WITH A FEW MODIFICATIONS.**

The Commission has proposed to establish a \$300 million per year, three-year pilot program designed to improve broadband Internet access services to low-income Americans by using USF funds through the Lifeline and Link-up programs.<sup>57</sup> In general, NTCA supports the creation of a broadband pilot program for low-income customers and offers suggestions to improve the proposed program. The Commission suggests increasing the USF to accommodate this pilot program and then evaluating the program's effectiveness for permanent acceptance.<sup>58</sup>

#### **A. Background.**

For purposes of the Broadband Lifeline Pilot Program only, the Commission has included broadband as a supported service for universal service funding.<sup>59</sup> The Commission relies on Section 254(b)(2) and 254(b)(3) of the Act to support the creation of this pilot program, but does not guarantee that all Lifeline and Link Up customers will be able to participate in the pilot

---

<sup>57</sup> FNPRM, Appendix A, ¶¶ 64-91, and Appendix C, ¶¶ 60-87. The broadband pilot program provisions are identical in both appendices and, for simplicity, citations in this section will refer just to the Appendix A provisions.

<sup>58</sup> FNPRM Appendix A, ¶ 76.

<sup>59</sup> *Id.* ¶ 71, fn. 174.

program.<sup>60</sup> Participation will be permitted on a “first-come, first-served” basis designed to prioritize distribution of the limited funds.<sup>61</sup> This means that ETCs who sign up new Lifeline or Link Up low-income customers first for the pilot program will have priority over those ETCs who sign up their customers later.

In 2007, about \$823 million of the USF went to serve low-income consumers.<sup>62</sup> The Commission asserts that a \$300 million per year 3-year pilot program will not overly increase the amount of low-income support disbursed from the USF.<sup>63</sup> The broadband pilot program is exempt from fees and taxes just as under the existing Lifeline USF program.<sup>64</sup> The broadband Internet access services and device subsidies are to be paid by the Universal Service Administrative Company (USAC) to the ETC per USAC’s usual USF procedures.<sup>65</sup>

NTCA is among a large group of participants in the current discussions to overhaul the USF who encourages the Commission to include broadband as a supported service for low-income consumers.<sup>66</sup> NTCA approves the FCC’s inclusion of broadband as a supported service for low-income consumers for a pilot program. NTCA also encourages the Commission to apply

---

<sup>60</sup> *Id.* ¶ 72. Indeed, the Commission estimates that the pilot program “should increase the broadband subscribership for low-income customers to over fifty percent.” *Id.* ¶¶ 75, 79.

<sup>61</sup> *Id.* ¶ 85.

<sup>62</sup> *Id.* ¶ 78.

<sup>63</sup> *Id.* ¶ 79.

<sup>64</sup> *Id.* ¶ 80.

<sup>65</sup> *Id.* ¶ 81.

<sup>66</sup> TracFone recommended the Commission start a trial program to support broadband services and devices for low-income consumers in Florida, Virginia, Tennessee, and the District of Columbia. *TracFone Petition to Establish a Trial Broadband Lifeline/Link Up Program*, WC Docket No. 03-109, CC Docket No. 96-45 (filed Oct. 9, 2008). A second petition, filed by the Computer and Communications Industry Association (CCIA), asked the Commission to include broadband internet access services for low-income consumers in the list of supported services for universal service. *CCIA Petition for Rulemaking to Enable Low-Income Consumers to Access Broadband through the Universal Service Lifeline and Link Up Programs*, WC Docket No. 03-109 (filed Oct. 7, 2008). The Washington Independent Telecommunications Association (WITA) and the Oregon Telecommunications Association (OTA) also support the pilot program for low-income consumers. WITA and OTA Comments, p. ii.

this same definition to all consumers and to require all broadband providers to contribute to the broadband pilot program.<sup>67</sup>

AT&T urges the Commission to create under Title I a special “Lifeline Service Provider” (LSP) designation, separate from ETC designation, which could be used by interconnected VoIP providers to participate in the pilot program.<sup>68</sup> The Commission should reject this suggestion because the Commission has not yet classified interconnected VoIP providers as telecommunications carriers or as subject to Title II regulation and thus they are not eligible to be ETCs. Consequently, interconnected VoIP providers should not be allowed to participate in the pilot program and the Commission need not create a new category of broadband service providers just for low-income consumers.

**B. The Proposed Low-Income Subsidies Are Substantial But May Miss Rural Consumers Unless the Pilot Includes a Rural Set-Aside and Excludes a Requirement to Provide Devices.**

The Commission estimates there are 6.9 million consumers participating in the Lifeline universal service program, and consumer eligibility depends on meeting the qualifications of 47 C.F.R. § 54.409.<sup>69</sup> Lifeline support provides low-income consumers with discounts up to \$10 monthly for telephone service, while Link-up provides low-income consumers with a discount up to \$30 for installing telephone services.<sup>70</sup> The Pilot Program provides that if an ETC provides Lifeline service to an eligible customer, 50% of that customer’s installation costs and internet access device expenses, up to \$100, will be paid through the pilot program.<sup>71</sup> Also, the pilot

---

<sup>67</sup> The California Public Utilities Commission (CPUC) also urges the Commission to require all broadband providers to contribute to the broadband pilot program for Lifeline and Link Up participants. CPUC Comments, p. 12.

<sup>68</sup> AT&T Comments, p. 53.

<sup>69</sup> FNPRM Appendix A, ¶ 75.

<sup>70</sup> *Id.* ¶ 65, fn. 158.

<sup>71</sup> *Id.* ¶ 64.

program will double, up to \$10, a Lifeline household's monthly subsidy to offset the cost of broadband internet services.<sup>72</sup> This subsidy is limited to one subsidy per household (one adult plus dependents living together).<sup>73</sup>

The Link Up portion of the pilot program will subsidize up to \$100 of the installation and the purchase of broadband internet access devices, *e.g.*, desktop computers, laptop computers, and handheld devices, so long as the devices can access the Internet at FCC-defined broadband speeds (at least 768 kbps download and greater than 200 kbps upload) and has a warranty.<sup>74</sup> The Commission implies that the \$100 subsidy is appropriate because desktop computers can be purchased from Wal-Mart for \$200.<sup>75</sup> The device support is limited to one device and new installation per household. Lifeline customers who already have a broadband connection and device are not eligible for this pilot program.<sup>76</sup> Consumers must return the broadband internet access devices to the ETC if the devices are not used in compliance with the pilot program or other applicable laws.<sup>77</sup>

High demand for the FCC's \$300 million per year for three year program is expected, so the Commission should modify its "first-come, first-served" approach by setting aside half of the funds for low-income consumers in rural areas. As Windstream correctly asserts, this set-aside will target support more efficiently to rural consumers who may not be sought as quickly and efficiently as their urban counterparts.<sup>78</sup> Windstream asserts that the first-come, first-served approach will not result in a proportionate distribution to rural consumers due to marketing

---

<sup>72</sup> *Ibid.*

<sup>73</sup> *Id.* ¶ 80.

<sup>74</sup> *Id.* ¶¶ 81, 84.

<sup>75</sup> *Id.* ¶ 75, fn. 187.

<sup>76</sup> *Id.* ¶ 86.

<sup>77</sup> *Id.* ¶ 90.

<sup>78</sup> Windstream Comments, p. 59.

difficulties, and requiring ETCs to offer a wide assortment of devices will impair ETCs' ability to keep costs low.<sup>79</sup> NTCA agrees.

The Proposed Order requires all participating ETCs to “make available a wide array of cost efficient broadband Internet access devices” for the program.<sup>80</sup> This requirement may be difficult for small rural ETCs to satisfy, which will minimize their ability to participate in the pilot program and unfairly favor large carriers who maintain product line relationships with computers and hand-held devices. AT&T suggests that the pilot program should not be used to subsidize devices like cell phones because many ETCs are not in the business of bringing devices to, or repossessing them from, their customers.<sup>81</sup> Most small rural ETCs have no such connection and, consequently, cannot make devices available as the Commission wants. The Commission should clarify and, if necessary, remove any requirement from the pilot program that ETCs provide devices to low-income consumers. Windstream also supports this approach.<sup>82</sup>

Some commenters have opposed using pilot program subsidies for devices, contending that it makes no sense to require low-income consumers who pay part of the device expense to return said devices if they are not being used in accordance with the pilot program. AT&T and NASUCA, for example, questioned the reasonability of a requirement that low-income consumers return the devices to the ETC if the consumers paid part of the cost of the devices and the ETC already is compensated for the device expense.<sup>83</sup> The Commission, in the Proposed Order, delegates to USAC the responsibility of deciding how much of the pilot funds should be allocated to the Lifeline services portion and the Link Up devices portion, “relying instead on the

---

<sup>79</sup> *Id.* at 57.

<sup>80</sup> FNPRM Appendix A, ¶ 90.

<sup>81</sup> AT&T Comments, pp. 51-52.

<sup>82</sup> Windstream Comments, p. 60.

<sup>83</sup> AT&T Comments, p. 52; NASUCA Comments, p. 36.

certification and reporting requirements herein to enable USAC to properly administer the Pilot Program.”<sup>84</sup> These arguments have some merit such that the Commission and USAC should seriously reflect on whether and how much of the pilot program funds should be used to reimburse devices, instead of just for broadband Internet access services. If the Commission chooses to proceed with the device subsidy, NTCA agrees with GoAmerica that video relay service (VRS) devices should be specifically included in the list of approved device categories for the pilot program.<sup>85</sup> The Commission should not, however, create a more detailed list of devices eligible for reimbursement because rural low-income consumers should not be locked into a small subset of devices used to access the Internet over their broadband connection.

**C. Amid The ETC Requirements, The Commission Should Require ETC Participants To Disclose Advertised Broadband Speeds And Not Require Provisioning The Entire Service Territory.**

As proposed, all ETCs in the existing low-income programs can participate in the broadband pilot program.<sup>86</sup> ETCs are required to certify their customers’ eligibility under the current Lifeline income-based or program-based criteria.<sup>87</sup> ETCs must notify USAC and the FCC of their election to participate in the pilot program by a date to be set by the Commission.<sup>88</sup> The ETCs must also certify their compliance with the programs (identify the service area, costs of service and devices, and costs to customers).<sup>89</sup> Support will be given to ETCs on a first-come, first-served basis, which means ETCs who submit their requests to USAC first for reimbursement will receive payment over subsequent submitters. ETCs must also comply with

---

<sup>84</sup> FNPRM Appendix A, ¶ 88.

<sup>85</sup> GoAmerica Comments, p. 3.

<sup>86</sup> FNPRM Appendix A, ¶ 83.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

<sup>89</sup> *Ibid.*

47 C.F.R. §54.405 regarding carrier obligations and submit a request for reimbursement to USAC within 30 days after a customer subscribes to broadband service or purchases a device.<sup>90</sup> ETCs must maintain self-certification procedures specified in 47 C.F.R. §§ 54.410 and 54.416.<sup>91</sup>

The Commission should review the ETCs' monthly reporting requirements to minimize the regulatory burden imposed on ETCs and to comply with the Regulatory Flexibility Act.<sup>92</sup> The ETCs' monthly reporting requirements include: 1) number of pilot program participants; 2) types and prices of devices offered; 3) type of technology used; 4) speeds at which it is providing service to each consumer; 5) number of subscribers served for the past month; and 6) projections of subscribers for next 2 months.<sup>93</sup> ETCs must keep records for three preceding calendar years and for three years after participating consumers stop receiving broadband Lifeline service under this pilot program.<sup>94</sup>

The Commission should clarify and affirm that the reported broadband speed is the advertised speed offered to the low-income customer, not the actual speed delivered.<sup>95</sup> NTCA's rural ETC members have encountered difficulties in reporting actual delivered speeds due to fluctuations in usage and other issues. AT&T acknowledges that actual delivered speeds are problematic to report.<sup>96</sup> NTCA concurs in this analysis and notes that the question of how and whether to report actual delivered speed is the subject of a pending Further Notice of Proposed

---

<sup>90</sup> *Id.* ¶ 88.

<sup>91</sup> *Id.* ¶ 90.

<sup>92</sup> The Regulatory Flexibility Act of 1980 is codified at 5 U.S.C. § 603.

<sup>93</sup> FNPRM Appendix A, ¶ 88.

<sup>94</sup> *Id.* ¶ 89.

<sup>95</sup> *Id.* ¶ 84.

<sup>96</sup> AT&T Comments, p. 54.

Rulemaking.<sup>97</sup> Consequently, for comparison purposes the Commission should require ETCs to report the advertised speed, not the actual delivered speed, offered in the serviced area.

The pilot program currently requires an ETC to offer the supported services throughout the service area.<sup>98</sup> This requirement poses difficulties to rural ETCs due to the expense involved in providing broadband throughout large rural service territories. Rural ETCs who must provision their entire service territories as a condition of participating in the pilot program may be forced to reject pilot program funding as a consequence. As AT&T and Windstream accurately contend, the participating ETCs should be allowed to apply the pilot program to part, not necessarily all, of their service territories.<sup>99</sup> This will encourage more rural ETCs to participate in the pilot program and to use program funds most effectively to bring broadband access to their low-income consumers.

The Commission should consider the effect on the pilot program of resolution of AT&T's pending USAC audit petition.<sup>100</sup> AT&T filed a petition on August 18, 2008, requesting review of a USAC audit review of AT&T's Lifeline Program. This appeal challenges USAC's interpretation of AT&T's certification documentation retention procedures for pro-rated Lifeline reimbursements, Lifeline reseller compliance certification, and toll blocking as reported on FCC Form 497.<sup>101</sup> The FCC sought comments on AT&T's petition, and this petition remains pending

---

<sup>97</sup> *In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscriber Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscriber Data*, WC Docket No. 07-38, Report and Order and Further Notice of Proposed Rulemaking (rel. June 12, 2008), ¶ 36.

<sup>98</sup> FNPRM Appendix A, ¶¶ 83, 87.

<sup>99</sup> AT&T Comments, p. 56; Windstream Comments, pp. 55, 57.

<sup>100</sup> *In the Matter Of Request for Review by AT&T Inc. of Decisions of Universal Service Administrator*, WC 03-109, filed Aug. 18, 2008.

<sup>101</sup> *Id.* at 2.

with the Commission. Resolution of AT&T's petition may affect ETC compliance requirements under this pilot program.

**D. Increasing The Size Of The Low-Income Portion Of The USF Through The Pilot Program May Strain Existing Auditing And Enforcement Actions.**

Under the pilot program, the FCC's Wireline Competition Bureau has delegated authority to disqualify an ETC or consumer from the pilot program and to seek support recovery if appropriate.<sup>102</sup> The FCC's Office of Inspector General (OIG) may audit every pilot program participant, including ETCs and vendors, and USAC is authorized to adjust support of other USF payments for improper use of pilot program funds.<sup>103</sup> The FCC can also impose fines and forfeitures, and can seek criminal sanctions, for waste, fraud and abuse of the pilot program funds.<sup>104</sup>

Recently the OIG released its Semiannual Report to Congress on the status of the existing Low-Income program of the USF.<sup>105</sup> In this Low-Income statistical analysis, the OIG concluded that the entire Low-Income program for 2006-08, approximately \$1.606 billion, must be considered an erroneous payment because USAC does not have proper source documents that permit verification of disbursements and because USAC disburses Low-Income funds based on an ETC's estimate of foregone revenues, not actual expenses.<sup>106</sup> The OIG classifies the Low-Income program as "at-risk" under the Improper Payments Information Act of 2002 (IPIA) and recommends USAC revise its document retention practices.<sup>107</sup>

---

<sup>102</sup> FNPRM Appendix A, ¶ 90.

<sup>103</sup> *Id.* ¶ 91.

<sup>104</sup> *Ibid.*

<sup>105</sup> FCC Office of the Inspector General, Assessment of Payments Made Under the Universal Service Fund's Low Income Program, (OIG Low-Income Statistical Analysis) (rel. Dec. 12, 2008).

<sup>106</sup> OIG Low-Income Statistical Analysis, pp. 3, 7; FCC News Release (rel. Dec. 12, 2008), p. 1.

<sup>107</sup> *Id.* at 7.

Given the new auditing and enforcement demands that will be placed on USAC and the OIG to audit the pilot program participants, the Commission should ensure that adequate resources and funding are in place. Other USF program participants, such as the High Cost fund participants, do not bear the brunt of underfunded USAC and OIG auditing and enforcement activities.

## **IX. CONCLUSION.**

The Commission must ensure consumers living in rural, high-cost areas are able to receive high-quality, affordable voice and broadband services. For this reason, the Commission should adopt the following prudent, fair and equitable IC and USF reform measures.

1. Allow state commissions to reduce voluntarily, on a company-by-company basis, intrastate originating and terminating tariffed access rates to interstate tariffed access rate levels over a reasonable period of time (5 years) and at the same time cap interstate originating and terminating access rates in order to keep interstate access rates from increasing.
2. Establish and implement a Restructure Mechanism (RM) to allow rate-of-return (RoR) carriers to recover lost access revenues not recovered in end-user rates through supplemental Interstate Common Line Support (ICLS) and price-cap carriers to recover lost access revenues not recovered in end-user rates through supplemental Interstate Access Support (IAS). Consistent with the RoR regulation, the RM calculation must produce ICLS support levels that ensure a RoR carrier can earn its authorized rate-of-return of 11.25% on total regulated operations, notwithstanding reductions in access rates, losses in access lines, and decreases in demand minutes. Supplemental ICLS and IAS should be offset by any increases in the Federal Subscriber Line Charge (SLC) up to \$1.50 and any increases in local end-user rates up to a Federal Benchmark (FB) rate of \$20. The FB rate should include local residential rates, state and federal SLCs and SLC-like charges, mandatory Enhanced Area Service (EAS) charges and per line state universal service fund collections. SLC increases, if any, should be limited to what is required for the company to reach the Federal Benchmark Rate and the overall SLC cap.
3. RoR carriers seeking to receive additional supplemental universal service support through the ICLS mechanism, and price-cap carriers seeking to receive additional supplemental universal service support through the IAS mechanism, would voluntarily choose to have their broadband services regulated under Title II and voluntarily provide their total company regulated Title II costs, revenues, and earnings to be used when determining their future broadband high-cost USF support disbursements. Supplemental ICLS or IAS would only be

provided to those carriers that voluntarily agree to have their broadband services regulated under Title II and receive supplemental ICLS or IAS to the extent necessary to recover all reasonable regulated costs. RoR carriers' earnings would be adjusted to 11.25% and price cap carriers' earnings would be adjusted in accordance with price cap rules.

4. Implement a rule that IP/PSTN traffic, specifically interconnected VoIP traffic, is required to pay applicable tariffed terminating interstate access rates, terminating intrastate access rates, and reciprocal compensation rates, until such time as there is no longer a PSTN.
5. Maintain the current interconnection environment, dismiss the AT&T Edge proposal, and consider any future changes to the existing interconnection rules in a FNPRM.
6. Eliminate the identical support rule and move over a reasonable period of time (5 years) towards USF support based on each company's own cost.
7. Include broadband in the definition of universal service and expand the USF contribution base to include all broadband service providers and retain revenues as the basis for assessing the USF contributions.
8. Reject reverse auctions for rate of return RoR carriers and maintain the current universal service mechanisms for rural carriers. The existing mechanisms have been successful in facilitating the deployment of broadband to rural customers.
9. Refrain from capping and/or freezing high-cost USF support to RoR carriers. Capping or freezing USF will halt broadband deployment in high cost areas served by rural companies and leave many rural consumers with substandard broadband service or without broadband service.
10. Require tandem switching rates and special access transport rates to be cost-based.
11. Refrain from adopting access rate reform beyond that described in Item 1 above without a further notice and comment to study the implications of adopting a different rate methodology, such as the TELRIC standard or the Faulhaber additional cost standard.
12. Refrain from ruling and seek further comment on whether the Commission has legal authority to include all voice traffic under Section 251(b)(5) of the Act, particularly when Section 152(b) grants state commissions with exclusive authority to regulate and set intrastate access rates, as well as the authority to set reciprocal compensation rates. The Proposed Orders in the FNPRM would unlawfully preempt state commission jurisdiction.
13. Improve the proposed broadband pilot program for low-income customers by setting aside half of the pilot program funds for rural low-income consumers and by clarifying the speed and device availability requirements. By permitting ETCs to use the low-income broadband pilot program to offer broadband internet access to part of their service territories, rather than

the entire territory, will enhance participation in the pilot program and, consequently, give more rural consumers affordable broadband internet access.

NTCA's recommendations allow for additional regulatory scrutiny concerning additional federal high-cost voice and broadband USF support, while creating a regulatory contract between broadband providers and the Commission. Regulators and Congress are asking carriers to build a national broadband network. Rural LECs are attempting to do their part in the rural high-cost areas they serve. Carriers operating in rural, high-cost areas should neither be expected nor required to commit resources without a reasonable expectation of a return on their investment. Likewise, the Commission, Congress, and the American public are entitled to know that federal USF dollars are being used to support this National broadband network and that these USF dollars are being used prudently. NTCA, therefore, urges the Commission to adopt the IC and USF reform measures contained herein, which assure consumers living in rural, high-cost areas are able to receive high-quality, affordable voice and broadband services.

Lastly, the Regulatory Flexibility Act (5 U.S.C. Section 601) requires the Commission to consider alternative rules that reduce the economic impact on small entities, such as RoR rural carriers. NTCA's USF and IC reform recommendations reduce the economic impact on small, RoR broadband providers and rural consumers. NTCA's proposals also allow the Commission to meet its regulatory responsibility, promote the public interest, convenience, and necessity,

spur development of new advanced communications technologies and broadband deployment, and, most importantly, ensure that consumers living in rural high-cost areas are able to receive high-quality, affordable voice and broadband services.

Respectfully submitted,



Scott Reiter  
*Director, Industry Relations*

Richard J. Schadelbauer  
*Economist*

By: /s/ Daniel Mitchell  
Daniel Mitchell  
Jill Canfield  
Karlen Reed  
*Attorneys*

4121 Wilson Boulevard, 10<sup>th</sup> Floor  
Arlington, VA 22203  
(703) 351-2000

December 22, 2008

## CERTIFICATE OF SERVICE

I, Adrienne Rolls, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket No. 06-122, CC Docket No. 96-98, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36, and CC Docket No. 99-200, FCC 08-262, was served on this 22nd day of December 2008 via electronic mail to the following persons:

Chairman Kevin J. Martin  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B201  
Washington, D.C. 20554  
[Kevin.Martin@fcc.gov](mailto:Kevin.Martin@fcc.gov)

Best Copy and Printing, Inc.  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room CY-B402  
Washington, D.C. 20554  
[fcc@bcpiweb.com](mailto:fcc@bcpiweb.com)

Commissioner Deborah Taylor Tate  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A204  
Washington, D.C. 20554  
[Deborah.Tate@fcc.gov](mailto:Deborah.Tate@fcc.gov)

Victoria Goldberg,  
Federal Communications Commission  
Pricing Policy Division, Wireline  
Competition Bureau  
445 12<sup>th</sup> Street, S.W., Room 5-A266  
Washington, D.C. 20554  
[Victoria.Goldbert@fcc.gov](mailto:Victoria.Goldbert@fcc.gov)

Commissioner Michael J. Copps  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-B115  
Washington, D.C. 20554  
[Michael.Copps@fcc.gov](mailto:Michael.Copps@fcc.gov)

Jennifer McKee  
Federal Communications Commission  
Telecommunications Access Policy Div.  
Wireline Competition Bureau  
445 12<sup>th</sup> Street, SW, Room 5-A423,  
Washington, D.C. 20554  
[Jennifer.McKee@fcc.gov](mailto:Jennifer.McKee@fcc.gov)

Commissioner Jonathan S. Adelstein  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-A302  
Washington, D.C. 20554  
[Jonathan.Adelstein@fcc.gov](mailto:Jonathan.Adelstein@fcc.gov)

Marilyn Jones  
Federal Communications Commission  
Competition Policy Division  
Wireline Competition Bureau  
445 12<sup>th</sup> Street, SW, Room 5-A423,  
Washington, D.C. 20554  
[Marilyn.Jones@fcc.gov](mailto:Marilyn.Jones@fcc.gov)

Commissioner Robert M. McDowell  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 8-C302  
Washington, D.C. 20554  
[Robert.McDowell@fcc.gov](mailto:Robert.McDowell@fcc.gov)

James S. Blaszak  
Levine, Blaszak, Block & Boothby, LLP  
Counsel for AdHoc Telecommunications  
Users Committee  
2001 L Street, NW, Suite 900  
Washington, D.C. 20036

Kenneth E. Hardman  
2154 Wisconsin Ave., NW, Ste 250  
Washington, D.C. 20554  
*Attorney for American Association of  
Paging Carriers and Association of  
TeleServices International, Inc.*  
[kenhardman@att.net](mailto:kenhardman@att.net)

Dennis O'Hara  
Brian D. Gilmore  
Association of Teleservices  
International, Inc.  
12 Academy Ave.  
Atkinson, NH 03811

Gary Wallace  
ATX Group, Inc.  
8550 Freeport Pkwy.  
Irving, TX 75063-2547

John E. Logan  
*Attorney for the ATX Group, Inc.*  
1050 Connecticut Ave., NW, 10<sup>th</sup> Floor  
Washington, D.C. 20036

John D. Goodman  
Broadband Service Providers  
Association  
1601 K Street, NW  
Washington, D.C. 20006

Christopher W. Savage  
DAVIS WRIGHT TREMAINE L.L.P.  
1919 Pennsylvania Ave., NW, Suite 200  
Washington, D.C. 20006

John F. Jones  
Jeffrey S. Glover  
CenturyTel, Inc.  
100 CenturyTel Park Dr.  
Monroe, LA 71203

Gregory J. Vogt  
Law Offices of Gregory J. Vogt, PLLC  
2121 Eisenhower Ave., Suite 200  
Alexandria, VA 22314

Douglas E. Hart  
Cincinnati Bell Inc.  
441 Vine Street, Suite 4192  
Cincinnati, Ohio 45202  
[dhart@douglasshart.com](mailto:dhart@douglasshart.com)

Andrew D. Lipman  
Joshua M. Bobeck  
BINGHAM MCCUTCHEN LLP  
*Counsel for M/C/ Venture Partners  
and Columbia Capital*

Danielle Burt  
Russell M. Blau  
Tamar E. Finn  
Jeffrey R. Strenkowski  
Jonathan S. Frankel  
Michael R. Romano  
BINGHAM MCCUTCHEN LLP  
2020 K Street, NW  
Washington, D.C. 20006  
[russell.blau@bingham.com](mailto:russell.blau@bingham.com)  
[tamar.finn@bingham.com](mailto:tamar.finn@bingham.com)  
[jeffrey.strenkowski@bingham.com](mailto:jeffrey.strenkowski@bingham.com)  
[jon.frankel@bingham.com](mailto:jon.frankel@bingham.com)  
[michael.romano@bingham.com](mailto:michael.romano@bingham.com)  
[Andrew.lipman@bingham.com](mailto:Andrew.lipman@bingham.com)  
[Josh.bobek@bingham.com](mailto:Josh.bobek@bingham.com)

Mary P. McManus  
Comcast Corporation  
2001 Pennsylvania Ave., NW, Suite 500  
Washington, D.C. 20006

Brian A. Rankin  
Comcast Cable Communications, LLC  
One Comcast Center, 50<sup>th</sup> Floor  
Philadelphia, PA 19103

David J. Kaufman  
Rini Coran, PC  
1615 L Street NW, Suite 1325  
Washington, D.C. 20036  
[dkaufman@rinicoran.com](mailto:dkaufman@rinicoran.com)

Mary C. Albert  
Karen Reidy  
COMPTEL  
900 17<sup>th</sup> Street, NW, Suite 400  
Washington, D.C. 20006

David C. Bartlett  
John E. Benedict  
Jeffrey S. Lanning  
Embarq  
701 Pennsylvania Ave, NW, Suite 820  
Washington, D.C. 20004

Ben Scott  
Free Press  
501 Third Street, NW, Suite 875  
Washington, D.C. 20001

Kenneth F. Mason  
Frontier Communications  
180 South Clinton Ave.  
Rochester, NY 14646-0700  
[ken.mason@frontiercorp.com](mailto:ken.mason@frontiercorp.com)

Gregg C. Sayre  
Frontier Communications  
180 South Clinton Ave.  
Rochester, NY 14646-0700  
[gregg.sayre@frontiercorp.com](mailto:gregg.sayre@frontiercorp.com)

Richard S. Whitt, Esq.  
*Washington Telecom and Media Counsel*  
GOOGLE INC.  
1101 New York Ave., NW, 2<sup>nd</sup> Floor  
Washington, D.C. 20005

Donna N. Lampert  
Mark J. O'Connor  
E. Ashton Johnston  
LAMPERT, O'CONNOR &  
JOHNSTON, P.C.  
*Counsel for Google Inc.*  
1776 K Street NW, Suite 700  
Washington, D.C. 20006

Jeffrey H. Smith  
GVNW Consulting, Inc.  
P.O. Box 2330  
Tualatin, OR 97062

Robert C. Schoonmaker  
GVNW Consulting, Inc.  
P.O. Box 25969  
Colorado Springs, CO 80936

Steven Doiron  
Hughes Network Systems, LLC  
11717 Exploration Lane  
Germantown, MD 20876

Christopher J. Murphy  
Inmarsat, Inc.  
1101 Connecticut Ave., NW, Suite 1200  
Washington, D.C. 20036

Ellen Schmidt  
Senior Counsel  
iBasis Retail, Inc.  
20 Second Ave.  
Burlington, MA 01803

Michael H. Pryor  
Stefanie A. Zalewski  
Mintz, Levin, Cohn, Ferris, Glovsky and  
Popeo, P.C.  
701 Pennsylvania Ave. NW, Suite 900  
Washington, D.C. 20004

Russell C. Merbeth  
Integra Telecom, Inc.  
*Assistant General Counsel*  
3213 Duke St., Suite 246  
Alexandria, VA 22314

Douglas K. Denney  
Integra Telecom, Inc.  
730 Second Avenue South, Suite 900  
Minneapolis, MN 55402

J. Jeffery Oxley  
Integra Telecom, Inc.  
1201 NE Lloyd Blvd., Suite 500  
Portland, OR 97232

David C. Duncan  
Iowa Telecommunications Association  
2987 100<sup>th</sup> Street  
Urbandale, IA 50322  
[DDUNCAN@I-T-A.NET](mailto:DDUNCAN@I-T-A.NET)

Joshua Seidemann  
ITTA  
975 F Street, NW, Suite 550  
Washington, D.C. 20004

Suzanne K. Toller  
Gregory J. Kopta  
DAVIS WRIGHT TREMAINE LLP  
505 Montgomery St., Suite 800  
San Francisco, CA 94111

Sharon E. Gillett  
Commonwealth of Massachusetts  
Department of Telecommunications  
and Cable, Commissioner  
Two South Station, 4th Floor  
Boston, MA 02110

Carl W. Northrop  
Michael Lazarus  
Paul, Hastings, Janofsky & Walker LLP  
875 15<sup>th</sup> Street, NW  
Washington, D.C. 20005

Mark A. Stachiw  
Metropcs Communications, Inc.  
2250 Lakeside Blvd.  
Richardson, TX 75082

Robin P. Ancona  
Michigan Public Service Commission  
6545 Mercantile Way, Suite 14  
P.O. Box 30221  
Lansing, MI 48909

W. R. England, III  
Brian T. McCartney  
BRYDON, SWEARENGEN &  
ENGLAND P.C.  
312 East Capitol Ave.  
Jefferson City, MO 65102-0456  
[trip@brydonlaw.com](mailto:trip@brydonlaw.com)  
[bmccartney@brydonlaw.com](mailto:bmccartney@brydonlaw.com)

Craig S. Johnson  
BERRY WILSON, LLC  
*Attorneys for the MoSTCG*  
304 E. High St., Suite 100  
Jefferson City, MO 65101  
[craig@csjohnsonlaw.com](mailto:craig@csjohnsonlaw.com)

James Bradford Ramsay  
National Association of Regulatory  
Utility Commissioners  
1101 Vermont Ave, NW Suite 200  
Washington, D.C. 20005

David C. Bergmann  
Office of the Ohio Consumers' Counsel  
10 West Broad St., Suite 1800  
Columbus, OH 43215-3485  
[Bergmann@occ.state.oh.us](mailto:Bergmann@occ.state.oh.us)

NASUCA  
8380 Colesville Rd., Suite 101  
Silver Spring, MD 20910

Derek E. White  
National Tribal Telecommunications  
Association  
In Care of:  
Gila River Telecommunications, Inc.  
P.O. Box 5015  
7065 West Allison Dr.  
Chandler, AZ 85226-5135

Daniel L. Brenner  
Neal M. Goldberg  
Steven F. Morris  
NCTA  
25 Massachusetts Ave., NW, Suite 100  
Washington, D.C. 20001-1431

Paul M. Schudel  
James A. Overcash  
WOODS & AITKEN LLP  
301 South 13<sup>th</sup> Street, Suite 500  
Lincoln, NE 68508

Shana Knutson  
The Nebraska PSC  
300 The Atrium Building  
1200 N Street  
Lincoln, NE 68508

Richard A. Askoff  
NECA  
80 South Jefferson Rd.  
Whippany, NJ 07981

Todd D. Daubert  
J. Isaac Himowitz  
Kelley Drye & Warren LLP  
Washington Harbour, Suite 400  
3050 K Street, NW  
Washington, D.C. 20007-5108  
[tdaubert@kelleydrye.com](mailto:tdaubert@kelleydrye.com)

Mark C. Ellison  
NRTC  
*Counsel to National Rural  
Telecommunications Cooperative*  
2121 Cooperative Way, Suite 500  
Herndon, VA 20171

Jack Richards  
Gregory E. Kunkle  
KELLER AND HECKMAN LLP  
*Counsel to NRTC*  
1001 G Street, NW, Suite 500 West  
Washington, D.C. 20001

Don A. Schooler  
Oklahoma Corporation Commission  
2101 N Lincoln Blvd  
P.O. Box 52000  
Oklahoma City, OK 73152-2000  
[d.schooler@occemail.com](mailto:d.schooler@occemail.com)

Ron Comingdeer  
Ron Corningdeer & Associates  
6011 N. Robinson Ave.  
Oklahoma City, OK 73118

David L. Sieradzki  
Ari Q. Fitzgerald  
HOGAN & HARTSON, LLP  
555 13<sup>th</sup> Street, NW  
Washington, D.C. 20004

Stuart Polikoff  
OPASTCO  
21 Dupont Circle NW, Suite 700  
Washington, D.C. 20036

Derrick B. Owens  
WTA  
317 Massachusetts Ave. NE, Suite 300  
Washington, D.C. 20002

Josep K. Witmer, Esq.  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
[joswitmer@state.pa.us](mailto:jowitmer@state.pa.us)

David U. Fierst  
Stein, Mitchell, & Muse, LLP  
1101 Connecticut Ave., NW  
Washington, D.C. 20036

Anne L. Hammerstein  
Public Utilities Section  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, OH 43215-3793  
[anne.hammerstein@puc.state.oh.us](mailto:anne.hammerstein@puc.state.oh.us)

Dean R. Brenner  
QUALCOMM Inc.  
2001 Pennsylvania Ave., NW, Suite 650  
Washington, D.C. 20006

Craig J. Brown  
Tiffany West Smink  
Quest Communications International  
Inc.  
607 14<sup>th</sup> Street, NW, Suite 950  
Washington, D.C. 20005  
[Craig.brown@quest.com](mailto:Craig.brown@quest.com)  
[Tiffany.smink@quest.com](mailto:Tiffany.smink@quest.com)

David Cosson  
RICA, *Its Attorney*  
2154 Wisconsin Ave., NW  
Washington, D.C. 20007

Michael Tenore  
Matthew T. Kinney  
RNK Inc. d/b/a RNK Communications  
333 Elm Street, Suite 310  
Dedham, MA 02026

Caressa D. Bennet  
Kenneth C. Johnson  
Bennet & Bennet, PLLC  
4350 East West Highway, Suite 201  
Bethesda, MD 20814

Robert W. McCausland  
SAGE TELECOM, INC.  
805 Central Expressway South  
Allen, TX 75013-2789

Anna M. Gomex  
Charles W. McKee  
Marybeth M. Banks  
Christopher Frentrup  
W. Richard Morris  
Norina T. Moy  
Sprint Nextel Corporation  
2001 Edmund Halley Dr.  
Reston, VA 20191

Paul J. Feldman  
FLETCHER, HEALD & HILDRETH,  
PLC  
1300 North 17<sup>th</sup> Street, 11th Floor  
Arlington, VA 22209

TCA, Inc.  
1975 Research Parkway, Suite 320  
Colorado Springs, CO 80920

David A. LaFuria  
David L. Nace  
John Cimko  
Lukas, Nace, Gutierrez & Sachs,  
Chartered  
1650 Tysons Blvd., Suite 1500  
McLean, VA 22102

Steven N. Teplitz  
Time Warner Cable Inc.  
800 Connecticut Ave., NW, Suite 800  
Washington, D.C. 0006

Julie P. Laine  
Time Warner Cable Inc.  
290 Harbor Dr.  
Stamford, CT 06902

James H. Barker  
Matthew A. Brill  
Catherine M. Henderson  
*Counsel for Toyota Motor Sales, Inc*  
Matthew A. Brill  
Brain W. Murray  
LATHAM & WATKINS LLP  
*Counsel for Time Warner Cable Inc. and  
USA Mobility, Inc.*  
555 11<sup>th</sup> Street, NW, Suite 1000  
Washington, D.C. 20004-1304

Kathleen O'Brien Ham  
Sara F. Leibman  
Amy R. Wolverton  
Indra Sehdev Chalk  
T-Mobile USA, Inc.  
401 Ninth Street, NW, Suite 550  
Washington, D.C. 20004

Nathan Benedict  
Don Ballard  
THE OFFICE OF PUC  
1701 N. Congress Ave., Suite 9-180  
P.O. Box 12397  
Austin, TX 78711-2397

Joseph Gillan  
Willkie Farr & Gallagher LLP  
*Attorneys for TW Telecom Inc., One  
Communications Corp. and CBeyond  
Inc.*  
1875 K Street, NW  
Washington, D.C. 20006

Jonathan Banks  
David B. Cohen  
USTA  
607 14<sup>th</sup> Street, NW, Suite 400  
Washington, D.C. 20005

Edward Shakin  
Christopher M. Miller  
VERIZON  
1515 North Courthouse Rd., Suite 500  
Arlington, VA 22201-2909

John T. Scott, III  
Tamara L. Preiss  
VERIZON WIRELESS  
1300 I Street, NW, Suite 400 West  
Washington, D.C. 20005

Peter Lurie  
Virgin Mobile USA, L.P.  
10 Independence Blvd.  
Warren, NJ 07059

Antoinette Cook Bush  
John M. Beahn  
Skadden, Arps, Slate, Meagher & Flom  
LLP  
1440 New York Ave., NW  
Washington, D.C. 20005

Brendan Kasper  
VONAGE HOLDINGS CORP.  
23 Main St.  
Holmdel, NJ 07733

Brita D. Strandberg  
S. Roberts Carter  
Harris, Wiltshire & Grannis LLP  
*Counsel to Vonage Holdings Corp.*  
1200 18<sup>th</sup> Street, NW  
Washington, D.C. 20036

David W. Danner  
Washington Utilities and Transportation  
Commission  
1300 S. Evergreen Park Dr. SW  
P.O. Box 47250  
Olympia, WA 98504-7250

William J. Warinner  
WARINNER, GESINGER &  
ASSOCIATES, LLC  
10561 Barkley St., Suite 550  
Overland Park, KS 66212  
[wwarinner@wgacpa.com](mailto:wwarinner@wgacpa.com)

Eric N. Einhorn  
Jennie B. Chandra  
Windstream Communications  
1155 15<sup>th</sup> Street, NW, Suite 1002  
Washington, D.C. 20005

/s/ Adrienne L. Rolls  
Adrienne L. Rolls