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 UNITED STATES CELLULAR CORPORATION

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December 22, 2008

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SUMMARY

The comments filed in response to the Commission's *Order on Remand and Further Notice of Proposed Rulemaking* reveal a disturbing theme that emerges from the agency's three proposals: At a time when consumers throughout rural America increasingly seek the superior services and reasonable prices offered by wireless carriers, the Commission has fashioned a set of proposals that appear designed to shut the door on competition, hamstring the ability of wireless carriers to build out their networks and offer services in rural and high-cost areas, and cut off consumers in these markets from access to quality wireless services at reasonable prices.

The following paragraphs summarize specific issues that illustrate how the Commission's proposed universal service reforms would fail to serve the interests of consumers and advance the goals of the Communications Act, and also summarize certain reforms and initiatives that the Commission should pursue, including the deployment of wireless broadband networks.

▪ ***U.S. Cellular's Broadband Proposal.*** As U.S. Cellular explained in its Comments, the Commission should focus on designing policies that enable wireless competitive ETCs to deploy wireless broadband networks. The comments reflect support for enabling wireless carriers to play a prominent role in meeting the Commission's goals for the availability of broadband Internet access service in rural and high-cost areas. U.S. Cellular's "Wireless Broadband Expansion Proposal for Rural Areas" offers an effective means for meeting these goals.

▪ ***The Phase-Out of Competitive ETC Support.*** The Commission's proposal to phase out competitive ETC support over a five-year period is not consistent with the eligibility standards established in Section 214(e) of the Communications Act of 1934, and would seriously undermine the sufficiency of support mechanisms to preserve and advance universal service. The proposal is arbitrary and capricious because the phase-out has no reasonable basis, and is not necessary to relieve any purported upward pressure on the high-cost fund. The proposal is unrea-

sonably discriminatory because there is no basis for phasing out competitive ETC support while leaving incumbent local exchange carriers' support intact, especially given the fact that a unilateral phase-out of competitive ETC funding will impose a competitive disadvantage upon these ETC carriers. The proposal is bad public policy because it would severely undermine competition in rural and high-cost areas and stifle the ability of consumers in these areas to obtain wireless services comparable to those available in urban areas.

▪ ***The Commission's Rush to Judgment.*** While the Commission's effort to address universal service reform is commendable, various commenters agree with U.S. Cellular that the Commission has run out of time, and that any eleventh-hour attempt to adopt sweeping universal service changes would be ill-advised. It simply would not be prudent for the Commission to take such a step when changes in the Commission's membership are imminent, when the nation's current financial crisis would greatly exacerbate the regulatory uncertainties that the Commission's actions would likely produce, and when commenters have demonstrated that several of the Commission's key universal service proposals have not been sufficiently formulated and require further elaboration by the agency before interested parties can properly evaluate them.

▪ ***Setting Aside USF Support for Incumbent LECs.*** Wireless competitive ETCs would be unfairly disadvantaged if the Commission reduces incumbent LECs' access charges, creates a new universal service mechanism to offset the resulting revenue loss, but then fails to make the existing and the new universal service support fully portable to competitive ETCs. Such a failure would violate the statutory requirement that universal service funding mechanisms must be competitively and technologically neutral.

▪ ***The Commission's Attack on Portability.*** The Commission has consistently followed the policy (which has been confirmed by judicial review) that universal service support

must be portable. But now, without any record evidence, the Commission proposes to walk away from this policy. The Commission's proposed refusal to make all universal service funding portable highlights a potential move by the agency to reduce or eliminate the agency's reliance upon competition as a vehicle for ensuring that consumers in rural and high-cost areas are given access to quality services at just, reasonable, and affordable rates. The record, by contrast, reflects the view that the Act does not permit the Commission to ignore the statute's pro-competitive goals, and that sound public policy requires (as the Commission has previously determined) that all universal service funding mechanisms must be competitively neutral.

▪ ***The Verizon Wireless "Step Down" Deal.*** In approving the Verizon Wireless and Alltel merger last month, the Commission accepted Verizon Wireless's commitment to phase out its ETC high-cost support over a five-year period. Verizon Wireless's decision, which it made even though it initially opposed any imposition of conditions regarding the merged company's receipt of high-cost funding, should not be viewed as justifying or requiring any across-the-board phase-out of competitive ETC universal service support. The trade-offs Verizon Wireless made, seeking its own private interests in pursuit of the Commission's merger approval, should not drive the agency's decisions and policies regarding the sufficiency of nationwide support mechanisms to serve consumers and advance the universal service goals of the Act. This is especially the case in light of the Commission's acknowledgment of the "unique facts" of the Verizon Wireless merger transaction.

▪ ***Using Cost Models for USF Support.*** The Commission should give serious consideration to updating the cost model currently used to provide universal service support in non-rural areas, and to examining whether a cost model could successfully be used to disburse support in areas served by rural incumbent LECs. The results of these reviews would then be applicable to

competitive ETCs. In particular, comments filed by CostQuest Associates describe problems with the Commission's current approach to funding in rural and non-rural areas, and also demonstrate that powerful tools are now available that make it possible for the Commission to develop and implement much more efficient and accurate costing methods. These tools may help to clear the path for reform measures that would benefit both consumers and competition in rural and high-cost areas.

- ***The Commission's Concern About "Uneconomic Competition."*** The Commission appears intent upon concluding that the promotion of competition actually impairs the pursuit of universal service goals, which it apparently believes can be better achieved by regulating single providers in rural and high-cost areas. The record shows that there is no basis for this view, and that the Commission's intent to turn away from pro-competitive policies has led to proposals that are not consistent with the Act. U.S. Cellular urges the Commission to adhere to the policies and requirements of the Act, which hold that competition is the best way to deliver quality services at affordable prices to consumers in rural America.

- ***One-Time Construction Grants.*** Some commenters have advocated one-time construction grants for the deployment of wireless infrastructure, coupled with elimination of any ongoing funding for the maintenance and operation of wireless networks. These proposals should be rejected because they are blind to the reality that networks must be maintained, operated, and upgraded over time. These proposals would impair the efforts of wireless ETCs to deliver quality services at affordable rates throughout their rural and high-cost service areas, and they would not be consistent with the Commission's longstanding policy of making high-cost funding available for the ongoing operation and maintenance of incumbent LECs' infrastructure and networks.

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REPLY COMMENTS OF UNITED STATES CELLULAR CORPORATION

United States Cellular Corporation ("U.S. Cellular"), by counsel, hereby provides these reply comments regarding proposals made in the Further Notice of Proposed Rulemaking

released by the Commission in the above-referenced dockets.[1] The Commission has sought comment on three specific proposals,[2] which in turn are attempts to pull together the wide range of comments obtained from three notices of proposed rulemaking adopted and released by the Commission in January of this year.[3]

I. INTRODUCTION.

There is support in the record for U.S. Cellular's views that the promotion of broadband deployment must be a critical component of the Commission's universal service reform, and that the Commission's broadband proposals are not adequate to accomplish the agency's goals. Numerous commenters also agree that the Commission's universal service proposals, taken as a whole, appear to abandon the agency's commitment to enhancing competition in rural and high-

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[1] *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*, CC Docket Nos. 96-45, 96-98, 99-68, 99-200, 01-92, WC Docket Nos. 03-109, 04-36, 05-337, 06-122 ("*ICC and USF Reform Rulemaking Proceeding*"), Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262, released Nov. 5, 2008, 73 Fed. Reg. 66821, Nov. 12, 2008 ("*Report and Order*" and "*Further Notice*"). Reply comments originally were due on December 3, 2008. *See* 73 Fed. Reg. at 66821; FCC Public Notice, *Comment Dates Established for Comprehensive Intercarrier Compensation and Universal Service Fund reform Further Notice of Proposed Rulemaking*, CC Docket Nos. 96-45, 96-98, 99-200, 01-92, WC Docket Nos. 03-109, 04-36, 05-337, 06-122, DA 08-2486, rel. Nov. 12, 2008. The Wireless Competition Bureau, in response to motions for extension of time filed by the National Association of State Utility Consumer Advocates and the Rural Cellular Association, subsequently extended the deadline for reply comments to December 22, 2008. *ICC and USF Reform Rulemaking Proceeding*, Order, DA 08-2631, rel. Dec. 2, 2008.

[2] *Further Notice* at para. 40. The three proposals are (1) *Further Notice*, App. A, Chairman's Draft Proposal, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking ("*Chairman's Draft Proposal*"); (2) *Further Notice*, App. B, Narrow Universal Service Reform Proposal, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking ("*Narrow Universal Service Reform Proposal*"); and (3) *Further Notice*, App. C, Alternative Proposal, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking ("*Alternative Proposal*"). *Id*.

[3] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) ("*Identical Support NPRM*"); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) ("*Reverse Auctions NPRM*"); *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) ("*Joint Board Comprehensive Reform NPRM*") (collectively, "*High-Cost Reform NPRMs*").

cost markets, that this would disserve consumers in these markets, and that a better course for the Commission would be to defer any attempt to adopt comprehensive universal service reforms.

The record confirms that a central focus of the Commission's work in developing Universal Service Fund ("USF") reforms must be the expansion of programs to promote the deployment by eligible telecommunications carriers ("ETCs") of broadband Internet access services. This goal is important because, as commenters document, broadband services play a vital and increasingly important role in the nation's commerce, in the operations of government, and in the daily lives of citizens across the country.

As this reliance upon broadband services continues to grow, a critical policy objective of the Commission must be to ensure that its universal service mechanisms result in the availability of broadband Internet access services in rural and high-cost areas that are comparable to those available in urban communities. U.S. Cellular believes that its Wireless Broadband Expansion Proposal for Rural Areas (the "U.S. Cellular Broadband Proposal" or "Broadband Proposal") offers an effective plan for wireless broadband deployment initiatives that would advance the Commission's goal to increase the availability of broadband Internet access service in rural and high-cost areas. In contrast, the record supports U.S. Cellular's position that the Commission's current broadband proposals would fall short of achieving the agency's goals.

In addition, numerous comments, in assessing the overall package of USF reforms proposed by the Commission, agree with U.S. Cellular that this latest chapter in the Commission's efforts to rework its universal service rules and policies has been marked by a very troubling departure from some of the agency's important longstanding policies.

When the Commission's reform proposals are evaluated as a whole, they almost appear to be an assault on competition and the role played by wireless competitive ETCs in serving con-

sumers in rural and high-cost areas. Consumers demand and expect access to wireless services, in part because the mobility and other features these services provide make them uniquely attractive in rural communities. But, as discussed in the following sections, the Commission has proposed a package of reforms that would frustrate consumer interests, sail beyond the Commission's authority under the Communications Act of 1934 ("Act"), and imperil competition in rural and high-cost markets.

II. THE RECORD CONFIRMS THE IMPORTANCE OF EXPANDING BROADBAND NETWORKS IN RURAL AMERICA; U.S. CELLULAR'S PLAN WOULD ACCOMPLISH THIS GOAL.

U.S. Cellular offered in its Comments a comprehensive wireless broadband initiative designed to utilize wireless technology and the resources of wireless competitive ETCs to achieve the goal or providing access to broadband Internet access services in rural and high-cost areas, in a manner that accomplishes comparability with broadband service in urban communities but that does not cause increases in the size of universal service funding mechanisms.[4] Information and analyses submitted by commenters have now underscored the importance of pursuing effective options to make sure that consumers in rural America can take advantage of broadband services. U.S. Cellular believes that its proposal provides such an option.

The U.S. Cellular Broadband Proposal provides a comprehensive approach for the deployment of broadband services by competitive ETCs. The Broadband Proposal would freeze competitive ETC universal service support at December 2008 levels. Broadband Internet access service offered on a common carriage basis would be defined as a supported service, and competitive ETCs committing to deploy broadband Internet access service to at least 90% of the population in their service areas within five years could use funds from their capped universal

[4] For a detailed description of the Broadband Proposal, see U.S. Cellular Comments at iii-v, 4-6, 14.

service funding to achieve this objective. The Commission could establish procedures in a further rulemaking for reducing funding available to any competitive ETCs that elect not to deploy broadband service. The Broadband Proposal would follow the adoption of this mechanism for broadband deployment over a five-year period with a further Commission rulemaking initiative that would include the establishment of a long-term USF goal for availability of services, the adoption of competitively neutral funding distribution mechanisms, and resolution of funding disparities that currently harm a number of states.

The importance of broadband can hardly be overstated. Both President-elect Obama and Congress have expressed support for initiatives to accelerate broadband deployment.[5] Chairman Martin has echoed these views regarding the importance of broadband deployment.[6] The capabilities provided by broadband have revolutionized the way in which people communicate. Virtually every facet of American society—education, health care, public safety, commerce and finance, the functions of government—has come to rely upon the communications capabilities provided by broadband Internet access.[7] More than 100 million residential customers subscribe

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[5] President-elect Obama has focused on the importance of broadband policy, indicating that his domestic agenda will include the following priority:

> Work towards true broadband in every community in America through a combination of reform of the Universal Service Fund, better use of the nation's wireless spectrum, promotion of next-generation facilities, technologies and applications, and new tax and loan incentives. America should lead the world in broadband penetration and Internet access.

Agenda–Technology: The Obama-Biden Plan, accessed at http://change.gov/agenda/technology_agenda/. *See* CTIA – The Wireless Association® ("CTIA") Petition for Rulemaking To Enable Low-Income Consumers To Access Broadband Through the Universal Service Lifeline and Link-Up Programs, filed Oct. 7, 2008, at 4 (citing statements of Senator Daniel Inouye and Congressman Edward Markey).

[6] Chairman Martin has observed that "[b]roadband technology is a key driver of economic growth. The ability to share increasing amounts of information at greater and greater speeds, increases productivity, facilitates interstate commerce, and helps drive innovation." *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps To Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*, GN Docket No. 07-45, Fifth Report, 23 FCC Rcd 9615, 9683 (2008) (Statement of Chairman Kevin J. Martin).

[7] *See* Sharon E. Gillett, William H. Lehr, Carlos A. Osorio & Marin A. Sirbu, MEASURING THE ECONOMIC IMPACT OF BROADBAND DEPLOYMENT (Feb. 28, 2006) at 4 (confirming that empirical "results support the view that broad-

to high-speed lines and more than 70 million residential customers subscribe to advanced services lines,[8] most Americans consider broadband to be a basic service,[9] and "broadband connectivity is recognized as an important engine for economic growth and prosperity."[10]

Wireless competitive ETCs can make an important contribution to the pursuit of the Commission's broadband deployment goals because "wireless services offer subscribers something important and valuable that no fiber-to-the-home or hybrid fiber-coax network can offer: mobility."[11] The versatility of wireless broadband has sparked dramatic increases in the demand for wireless broadband services. For example, according to a report issued last month, revenues from wireless broadband data services increased 7.3% between the second and third quarters of 2008 (during the onset of a sharp downturn in the national economy), while the increase from the third quarter of 2007 to the third quarter of 2008 was 37.5%. Revenue from wireless broadband data services for the third quarter of 2008 was $8.8 billion, while revenue for the first three quarters of 2008 was $24.5 billion (equal to the total amount of revenue for 2007).[12] The report also indicated that 74% of Verizon Wireless's subscribers are using some form of broadband data

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band access *does* enhance economic growth and performance, and that the assumed economic impacts of broadband are real and measurable") (emphasis in original).

[8] *See* CTIA Comments at 5 & n. 13.

[9] *See* Commnet Wireless Comments at 10-11.

[10] CTIA Comments at 5 (footnote omitted).

[11] Centennial Communications Comments at 6. Centennial Communications goes on to observe that:

> Mobile phones are increasingly becoming sophisticated computing and Internet-access devices along with their more traditional voice communications capabilities. Moreover, wireless cards accessing CMRS providers' data services can easily be inserted into portable laptop computers, giving people the freedom to work and obtain information at high speeds whether at home or not, and without regard to whether the subscriber is within range of a WiFi "hotspot."

Id.

[12] Chetan Sharma Consulting, *US Wireless Data Market: Q3 2008 Update*, rel. Nov. 2008, at 2 (accessed at http://www/chetansharma.com/usmarketupdateq308.htm).

service.[13] This steady growth in wireless broadband has important implications for overall productivity throughout the national economy.[14]

U.S. Cellular and other commenters believe that the Commission's "Plan C" broadband proposal would not be effective in promoting broadband deployment in general, or wireless broadband deployment in particular. First, the proposal is not consistent with the Act because it attempts to extend universal service support to broadband Internet access service without treating broadband Internet access as a supported service for purposes of Section 254 of the Act.[15] Second, the Commission's proposal to phase out competitive ETC support over a five-year period would obviously cripple the ability of wireless competitive ETCs to deploy infrastructure and offer broadband Internet access service in their rural and high-cost service areas.

The Commission's proposal thus fails to respond adequately to an important implication of the continuing growth in the demand for broadband services, namely, "the need to transition our national communications policy from a telephone-centric model [to a model] that supports high capacity broadband buildout, especially in rural, un-served and underserved areas."[16] The

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[13] *Id*. at 3.

[14] *See* Roger Entner, *The Increasingly Important Impact of Wireless Broadband Technology and Services in the U.S. Economy: A Follow Up to the 2005 Ovum Report on the Impact of the US Wireless Telecom Industry on the US Economy* (2008) at 4 (accessed at http://www.ctia.org/advocacy/research/index.cfm/AID/10538):

> Over the next 10 years, we can expect the productivity gains from the deployment and use of wireless broadband services to become much more important. We estimate that productivity gains will generate almost $860 billion in additional GDP [Gross Domestic Product] over the next decade, an increase of our original estimate of $600 billion. This readjustment is attributable to the increased number of enterprises and their employees using wireless broadband technologies and the deployment and adoption of new applications in the enterprise space which we did not foresee the [*sic*] during the 2005 study.

[15] *See*, *e.g*., Rural Independent Competitive Alliance ("RICA") Comments at 13-15; U.S. Cellular Comments at 11-12; Wisconsin Public Service Commission Comments at 3.

[16] Google Comments at 9. In fact, the Commission has shown little interest in moving away from "telephone-centric" universal service mechanisms, as demonstrated by its current proposals which appear designed to protect the market position of incumbent LECs. These proposals include the unilateral phase-out of competitive ETC support, retention of the embedded cost funding mechanism for rural incumbent LECs, freezing competitive ETC support at 2008 levels while freezing rural incumbent LEC support at 2010 levels, and imposing cumbersome and ill-defined cost accounting requirements on competitive ETCs.

U.S. Cellular Broadband Proposal would move in the direction of this necessary transition by treating broadband Internet access service as a supported service for purposes of Section 254, and also ensuring the availability of support for wireless broadband.

The Broadband Proposal would help to accomplish the goal of "ensuring that broadband is available to all Americans"[17] in several ways. First, as noted above, the Broadband Proposal would treat broadband Internet access service as a supported service for purposes of Section 254,[18] thus avoiding the legal infirmities inherent in the Commission's current proposal.

Second, the Broadband Proposal—in contrast to the Commission's proposal—would not phase out universal service support for wireless competitive ETCs, thus enabling them to meet broadband deployment requirements established by the Commission.

Third, the Broadband Proposal establishes achievable goals for broadband deployment, and ensures that progress toward these goals will be effectively monitored. Broadband networks deployed by competitive ETCs would be required to provide facilities-based service to at least 90% of the population in their designated services areas within five years. The networks must provide an average downlink throughput rate of at least 768 kbps. Wireless competitive ETCs would also be required to provide the Commission with annual progress reports, including various statistical data regarding the status of broadband deployment. U.S. Cellular believes that these build-out goals are realistic so long as universal service funding remains available for wireless ETCs.

Fourth, the Broadband Proposal would provide for sufficient support for service areas where broadband deployment is needed. While it perhaps could be maintained that the Commission's proposal to freeze competitive ETC support at December 2008 levels (which U.S. Cellular

[17] *Chairman's Draft Proposal* at para. 4.

[18] U.S. Cellular Comments at 5, 14.

has incorporated in its Broadband Proposal) might negatively affect the adequacy of support for broadband deployment,[19] U.S. Cellular is confident that wireless carriers, because of the operational efficiencies they have developed as participants in competitive markets, would be successful in utilizing such frozen support to meet their current obligations in most of their service areas and also meet the Commission's broadband deployment requirements.[20] In any event, one thing that is certain is that wireless competitive ETCs would *not* be in a position to make broadband Internet access service available to 90% of the population in their service areas if they were subjected to the five-year funding phase-out proposed by the Commission.

III. THE PROPOSED PHASE-OUT OF COMPETITIVE ETC SUPPORT IS BOTH UNLAWFUL AND BAD PUBLIC POLICY.

The referenced dockets are overflowing with comments that oppose Commission proposals that would both drive wireless competitive ETCs out of rural and high-cost markets and deprive consumers in those markets of the myriad benefits of wireless telecommunications services. The capstone of this apparent Commission effort to derail competition and undercut universal service goals in rural America is the Commission's proposal to phase out all high-cost support to competitive ETCs over a five-year period.[21] The record reveals many problems with the Commission's "step down" proposal.[22]

The Commission's proposal violates the Act because phasing out high-cost support currently available to wireless competitive ETCs would result in de-certifying and de-funding these

[19] *See* Qwest Communications International Comments at 39.

[20] As noted above, there are some states where ETC funding was frozen at levels that put them at substantial disadvantages. This could be addressed in a subsequent Commission rulemaking.

[21] *Alternative Proposal* at para. 52. The Commission provides a brief explanation of how its "step down" proposal would work, but offers no policy justification for the proposal or any claim that the proposal would be consistent with the Act.

[22] *See*, *e.g.*, Leap Wireless International Comments at 8 (concluding that the step down "proposal is fundamentally inconsistent with the other reforms the Commission proposes and should not be part of the Commission's final order").

carriers, and the Commission has no authority under the statute to take such an action.[23] Section 214(e) of the Act provides that a carrier designated as an ETC "shall be eligible to receive universal service support."[24] The Commission's proposal to phase out this support completely over a five-year period would turn Section 214(e) into a nullity.[25]

Moreover, the Commission fails to demonstrate that the step down of support to competitive ETCs both would not adversely affect the provision of quality services to consumers in rural and high-cost areas that are affordable[26] and comparable to services available in urban areas,[27] and would not undercut the sufficiency of support mechanisms "to preserve and advance universal service."[28] The systematic reduction of competitive ETC support (without any assurance that an adequate and competitively neutral replacement funding mechanism would be in place) would not be consistent with the provisions of Section 254 of the Act.[29]

The Commission proposal is arbitrary and capricious because the Commission offers no explanation of why the elimination of competitive ETC funding is required to advance universal service goals or to protect the sufficiency of the high-cost fund. Phasing out competitive ETC support is not necessary to relieve upward pressure on the high-cost fund, because the Commission has failed to demonstrate that competitive ETCs have caused any such upward pressure, or even that such pressure actually exists.[30] On December 15, 2008, the Commission announced

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[23] *See* Centennial Communications Comments at 4.

[24] 47 U.S.C. § 214(e).

[25] *See* RICA Comments at 19 (the Commission's proposal would "amount to an administrative repeal of a statutory provision"); USA Coalition & Rural Cellular Association Comments at 13-14.

[26] 47 U.S.C. § 254(b)(1).

[27] 47 U.S.C. § 254(b)(3).

[28] 47 U.S.C. § 254(b)(5). *See* Alliance Carriers Comments at 12-13; CompTel Comments at 33; USA Coalition & Rural Cellular Association Comments at 14.

[29] *See* CompTel Comments at 31-32.

[30] *See* U.S. Cellular Comments at 31-32.

that its contribution factor decreased from 11.4% to 9.5%, significantly reducing consumer contributions into the fund.[31] By our calculation, less than a quarter of the 1.9% drop in the contribution factor arose from the interim cap on high-cost support, further evidence that an uncapped high-cost fund is not experiencing "explosive growth" as claimed by the agency.

Even if the Commission could demonstrate that such a danger threatens the high-cost fund—which it cannot—the danger has been addressed by the agency's imposition of a discriminatory interim cap upon competitive ETC funding[32] and by the agency's proposal in the *Further Notice* to impose an across-the-board cap on high-cost support disbursements.[33] In addition, the purported presence of such a danger could not justify a funding phase-out applied exclusively to competitive ETCs because, as noted above, there is no basis for concluding that competitive ETCs are responsible for any upward pressure on the size of the high-cost fund.[34]

The Commission proposal is also discriminatory, and thus in violation of the Act and the Commission's principle of competitive neutrality, because the funding phase-out would apply only to competitive ETCs and not to incumbent local exchange carriers ("LECs").[35] If the Commission's rationale is that its discriminatory proposal is reasonable because incumbent LECs, unlike competitive LECs, face carrier of last resort ("COLR") obligations, this reasoning cannot be squared with the facts. The Commission has been successful in encouraging states to require that competitive ETCs must be capable of meeting COLR obligations if an incumbent

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[31] *Public Notice*, "Proposed First Quarter 2009 Universal Service Contribution Factor," DA 08-2706 (Dec. 15, 2008).

[32] *High-Cost Universal Service, Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834 (2008), *appeal docketed*, No. 08-1284 (D.C. Cir. Aug. 29, 2008).

[33] *See Chairman's Draft Proposal* at para. 14; *Narrow Universal Service Reform Proposal* at para. 14; *Alternative Proposal* at para. 14.

[34] See CompTel Comments at 32-33.

[35] *See id*. at 33; Missouri Public Service Commission Comments at 12; Sprint Nextel Comments at 31; USA Coalition & Rural Cellular Association Comments at 13, 15.

LEC foregoes universal service support funds in a given service area. Because of these state requirements, incumbent LECs and competitive ETCs today face very similar regulatory burdens, and, thus, incumbent LECs' COLR obligations cannot be used as a justification for the discriminatory imposition of a funding phase-out on competitive ETCs.

The Commission's reasoning may be that its proposed discrimination is justified because the phase-out is premised on the development of a replacement funding mechanism for competitive ETCs, and a parallel phase-out of existing funding for rural incumbent LECs is not necessary because their funding mechanism (based on embedded costs) is not being replaced. Such a rationale is not persuasive, because it overlooks the fact that unilaterally subjecting competitive ETCs to a phase-out of their universal service support will place them at a competitive disadvantage (in addition to upsetting their investment decisions and timetables, and making it more difficult for them to comply with state-imposed deployment and service obligations[36]). Instead of imposing an unfair and discriminatory funding phase-out, the Commission should turn its attention to encouraging the deployment of broadband and mobility services across rural America.

In addition, under the Commission's proposal there is no guarantee that there would be a seamless transition to a new funding mechanism for competitive ETCs that would avoid any reductions in the levels of current funding for these carriers that are not offset by funding made available pursuant to the new mechanisms. If such a seamless transition does not occur, this result would place competitive ETCs at an obvious disadvantage in their efforts to continue the deployment of their networks and the provision of services in rural and high-cost areas.

[36] *See* Corr Wireless Communications Comments at 6-7 (arguing that any withdrawal of competitive ETC support should be deferred for at least five years because competitive ETCs have made capital expenditure commitments that are dependent in part upon continuing receipt of high-cost funding); Leap Wireless International Comments at 8-9.

The proposal to phase out all high-cost support to competitive ETCs is bad public policy because it disregards the interests of consumers in rural and high-cost areas. Leaving incumbent LECs' current funding levels intact, while phasing out funding to competitive ETCs, would undermine competition and ignore the growing demand for wireless services throughout rural America.[37] Given the current state of the national economy, it makes little sense for the Commission to propose to reduce investment in telecommunications infrastructure in rural and high-cost areas.[38] The Commission's policy focus should be on enhancing the availability of wireless services in rural and high-cost areas[39] to meet consumer demand and ensure comparability with services available in urban areas.[40] Instead, the Commission's proposal turns its back on rural and high-cost areas and also pulls the plug on competition in rural and high-cost areas that consumers so desperately need.

Finally, if the Commission were to insist upon considering the imposition of a funding phase-out on competitive ETCs, then this "phase-out of support [under existing support mechanisms] *should not begin* until the phase-in of support under the successor mechanism begins. The transition of CETC support thus would begin once a successor mechanism is adopted."[41] Proceeding in tandem could introduce some degree of relief for competitive ETCs, although it would not cure the discriminatory, arbitrary, and capricious nature of the Commission's step down proposal.

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[37] *See* CTIA Comments at 2-7; U.S. Cellular Comments at 33-35.

[38] Alliance Carriers Comments at 13.

[39] *See* 47 U.S.C. § 254(b)(2).

[40] *See* 47 U.S.C. § 254(b)(3).

[41] CTIA Comments at 17 (emphasis added). *See* Sprint Nextel Comments at 30-31 (arguing that any elimination of existing competitive ETC support should be tied to adoption and implementation of a new support mechanism).

IV. COMPREHENSIVE REFORM WITHOUT THE ABILITY TO IMPLEMENT THE PROPOSED ORDER WILL INDUCE SIGNIFICANT REGULATORY INEFFICIENCIES.

Above all else, the Commission should do no harm. Comprehensive reform should not be done on the eve of a transition to a new administration, especially one that is likely to have significantly different views on how universal service mechanisms should be reformed. The need for a well thought-out regulatory structure, which enables carriers to make rational and prudent investment decisions, has been noted in the comments[42] and also was discussed by Warren Lavey in *Making and Keeping Regulatory Promises*:

> Both regulated and unregulated businesses face uncertainties about factors such as market demand, technology changes, supply costs, and competitors' strategies. For businesses in regulated industries, uncertainty about future regulations can add to difficulties of companies in attracting capital and making investments in infrastructure, products, and services. Business plans are developed with long-term assumptions about a wide range of factors, some of which are heavily influenced by regulators. *While regulators require or induce carriers to spend billions of dollars annually on networks and offerings, regulators also often preserve the flexibility of present and future commissioners to shape future regulations, which will determine in substantial part the carriers' returns on these investments. The business uncertainty for carriers resulting from such regulatory flexibility can impose costs on carriers in terms of less productive use of resources and lost opportunities.* Costs can be imposed on consumers in terms of higher prices and lower service quality.[43]

The Commission will likely do significant harm if it pushes through any of the three proposed reforms. As stated by Mr. Lavey, "[r]egulatory uncertainties can harm consumers and be contrary to the public interest. Regulators should more frequently recognize the large efficiency

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[42] *See, e.g.*, Alliance Carriers Comments at 2-3. Commenters have also been critical of the Commission's apparent intent to rush ahead toward final action in this proceeding at this time. *See, e.g.*, Centennial Communications Comments at 4, n. 9 (arguing that "it is probably necessary, as a practical matter, for the Commission to take more time to develop a system that actually comports with the specific requirements of the law, or even to seek new legislation on this topic from the new Congress"); Delaware Public Service Commission Comments at 1-2; Integra Telecom Comments at 23; Megapath Comments at 2 (criticizing the "rushed nature of this proceeding"); National Association of Regulatory Utility Commissioners Comments at 4 (noting "that [the] FCC is unlikely to have the record needed to support action on the majority of the detailed proposals included in the three drafts" released by the Commission); Tennessee Regulatory Authority Comments at 2 (unpaginated).

[43] Warren G. Lavey, *Making and Keeping Regulatory Promises*, 55 FED. COMM. L.J. 1, 3 (2002) ("Lavey") (emphasis added).

enhancements of decreasing the uncertainty surrounding future regulations and strive to adopt well-defined sequences of regulatory changes with clear timing."[44] The Organization for Economic Co-operation and Development has also advised that "[c]omprehensive reform does not mean that all changes occur immediately; rather, it is consistent with sequencing strategies and transitional steps as long as they are temporary and steps and timing are clear."[45]

Here, sequencing strategies and transitional steps have not been adequately considered and market participants cannot make rational decisions based on any of the three choices provided by the agency to date. Moreover, "major macroeconomic downturns can swamp some of the rate and service commitments by both regulators and carriers."[46] At a time when the nation is facing an unprecedented economic crisis, U.S. Cellular cannot imagine a worse time for the Commission to take significant action that will likely make it very difficult for market participants to make rational investment and other business decisions as a result of the uncertainties that will flow from any of the three proposed orders.[47]

Universal service reform is a living program that requires constant care and feeding to maintain and improve the lives of rural Americans. Radical eleventh hour reforms will only increase uncertainty for all carriers at a time when the nation's economy is in significant peril.[48]

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[44] *Id*. at 59.

[45] Organisation for Economic Co-operation and Development, *The OECD Report on Regulatory Reform: Synthesis* at 25 (1997), *cited in* Lavey at 3.

[46] Lavey at 4.

[47] *See*, *e.g*., Corr Wireless Communications Comments at 6-7.

[48] U.S. Cellular agrees with Leap Wireless International's assertion that:

> Regulatory certainty is a prerequisite to substantial investment in network infrastructure—now more than ever in today's difficult economic climate. The phasing out of funding for competitive ETCs while the Commission thinks about a replacement funding mechanism for wireless broadband deployment creates regulatory uncertainty and sends precisely the wrong signals to the market. Adoption of this option threatens to delay or forestall wireless broadband infrastructure investment as long as that regulatory uncertainty continues to exist, undermining the very goals of expeditious universal broadband access the Commission seeks to achieve.

Unvetted proposals such as a four-year plan to eliminate support to competitive carriers without having a successor mechanism in place, which proposals will undoubtedly be challenged in court (with a fair likelihood of success), only increase uncertainty for market participants.

These uncertainties have significant consequences for rural consumers. U.S. Cellular believes the better course is to take no action with respect to the universal service program so that Congress and the next FCC have an opportunity to consider enacting comprehensive reforms that provide all industry participants with the kind of certainty that is needed in an area where regulatory promises are critical to determining whether, literally, billions of dollars of investment capital will be efficiently deployed.

V. ANY PROPOSAL TO "SET ASIDE" SUPPORT FOR ANY CLASS OF CARRIER VIOLATES COMPETITIVE NEUTRALITY AND WILL NOT SURVIVE JUDICIAL REVIEW.

Should the Commission determine that incumbent LEC access charges should be reduced to a cost-based rate, or eliminated altogether, any universal service mechanism created to replace the loss of such revenues to incumbent LECs must be made portable and available to all eligible carriers.[49] At a recent seminar sponsored by the Free State Foundation, Gerald Brock stated:

> When I suggest abolishing access charges, the people who have been heavily involved respond that I do not understand the problems of the rural telephone companies. They say that access charges are a critical part of what those telephone companies do. I have two answers to that. One is that we need to separate the subsidy aspect from the intercarrier compensation aspect. Insofar as it is necessary to provide subsidies, that should be done through the universal service fund. When we embed subsidies within intercarrier compensation, we have problems of arbitrage.[50]

Leap Wireless International Comments at 8-9.

[49] *See, e.g.*, Alliance Carriers Comments at 8-10; T-Mobile USA Comments at 18-19.

[50] Gerald Brock, *Archaic Intercarrier Compensation and Universal Service Regimes: Proposals for Reform*." Free State Foundation Presentation, Oct. 24, 2008.

This is essentially the same argument that the Commission used to justify removing support from access charges in its *CALLS Order*[51] and *MAG Order*.[52] Implicit support can harm wireline carriers by opening up to attack access charges that include support from lower-cost providers.

The Commission must continue to work to remove all implicit support from carrier rate structures and make such support portable to all eligible carriers. Support that is reserved for any particular class of carrier is a violation of the FCC's own core principle of competitive neutrality.

VI. NEITHER THE COMMISSION NOR ANY COMMENTING PARTY HAS PROVIDED ANY RATIONAL BASIS TO CONCLUDE THAT SUPPORT SHOULD NOT BE PORTABLE.

For years, the Commission made as a centerpiece of its universal service policy the concept that all support must be portable, that is, the company that gets the customer gets the support, while the company that loses the customer loses the support. That is how it works for competitive ETCs today.

The FCC rightfully and successfully defended this concept before the courts, resulting in the Fifth Circuit's *Alenco* ruling that portability is required by statute.[53] The FCC repeatedly rei-

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[51] *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long-Distance Users; Federal-State Joint Board on Universal Service, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45*, 15 FCC Rcd 12962 (2000) ("*CALLS Order*"), *aff'd in part, Texas Office of Pub. Util. Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001).

[52] *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order and Further Notice of Proposed Rulemaking, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fifteenth Report and Order, *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77, Report and Order, *Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers*, CC Docket No. 98-166, Report and Order, 16 FCC Rcd 19613 (2001) ("*MAG Order*") (subsequent history omitted).

[53] The *Alenco* court concluded that:

> the [USF funding] program must treat all market participants equally—for example, *subsidies must be portable*—so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers. . . . [T]his principle is made necessary not only by the economic realities of competitive markets *but also by statute*.

terated its commitment to portability, to take effect as soon as universal service mechanisms could be restructured. In fact, the Commission made all Interstate Access Support ("IAS") fully portable in the *CALLS Order*, explaining that the proposal adopted by the Commission replaced the access "subsidies with explicit interstate access universal service support [that is] *fully portable* among eligible telecommunications carriers."[54]

Now, both the *Chairman's Draft Proposal* and the *Alternative Proposal* attempt to reject portability on the grounds that "incumbent LECs, as a result of their classification as dominant carriers, have had their end-user charges regulated (both in terms of rate levels and rate structures), they have less flexibility than other carriers to recover decreased intercarrier revenues through end-user charges."[55] The Commission's proposal would also seek to conclude that competitive carriers, who are not rate regulated, have flexibility to raise end user prices to make up for lost access or universal service support.[56]

U.S. Cellular is struck by the lack of constancy in the *Chairman's Draft Proposal* and the *Alternative Proposal*, which would shelve one of the Commission's core principles—that support is for consumers and not for carriers—and would treat portability as if it were a tertiary consideration. It is difficult to imagine a more illegally discriminatory policy than reserving support for only one class of carrier, for the following reasons:

- Given the fact that competitive markets constrain price-setting by competing firms, there is no basis for the Commission to conclude that competitive ETCs have any more flexibility than incumbent LECs to raise prices.[57]

Alenco Communications, Inc. v. FCC, 201 F.3d 608, 616 (5th Cir. 2000) ("*Alenco*") (emphasis added).

[54] *CALLS Order*, 15 FCC Rcd at 12975-76 (para. 32) (footnote omitted) (emphasis added).

[55] *Chairman's Draft Proposal* at para. 319; *Alternative Proposal* at para. 315.

[56] *Chairman's Draft Proposal* at para. 319; *Alternative Proposal* at para. 315.

[57] *See* Integra Telecom Comments at 26-27.

- Even if a competitive ETC did raise prices, it only makes its service less competitive with the service of the remaining supported carrier, precisely the problem the FCC properly sought to resolve years ago when it mandated that all support must be portable so as to level the playing field among carriers.
- In order to comply with its obligation to respond to all reasonable requests for service throughout its ETC service area, a competitive ETC that needs to build out facilities without support will be forced to raise prices for consumers in the farthest reaches of its system, prejudicing the very consumers who need telecommunications services the most because of their remoteness, and who also are paying into the system through USF charges so that they can get service at reasonably comparable prices. This too is exactly the problem that Section 254(b)(3) of the Act intended to resolve.
- The Commission sets forth ***zero record evidence*** in support of its conclusions that competitive ETCs have more flexibility to raise prices, that incumbent LECs should be a favored class of carrier,[58] and that the marketplace has significantly changed since the FCC's prior and opposite conclusions were released in prior orders.

VII. THE COMMISSION IS NOT BOUND BY VERIZON WIRELESS'S VOLUNTARY AGREEMENT TO STEP-DOWN ITS FEDERAL UNIVERSAL SERVICE SUPPORT.

In its initial comments, Verizon Wireless expressed concern about having a level playing field,[59] since it voluntarily agreed to step down its federal high-cost support.[60] Interestingly, Ve-

[58] *See* T-Mobile USA Comments at 18-19 (arguing that incumbent LECs already receive almost 70% of total high-cost support under existing rules, and that the addition of even more non-portable Interstate Common Line Support and IAS funds would violate the statutory requirement of competitively neutral funding, undermine the pro-competitive goals of those funds, and result in "protection [of the incumbent LECs] from competition, the very antithesis of the Act") (footnotes and citations omitted).

[59] *See* Verizon & Verizon Wireless Comments at 3-4, 29-30.

[60] *See Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, FCC 08-258, rel. Nov. 10, 2008, at paras. 192-197.

rizon Wireless never chose to apply for ETC status in rural areas and thus effectively decided to forego federal universal service support, and Verizon Wireless never before had a problem with the issue of whether there is an unfair competitive imbalance between carriers receiving universal service support and those who opt to forego such support.

At this stage, it appears that Verizon Wireless has willingly agreed to relinquish its commitment as an ETC to offer service throughout its area. Legally, it should be permitted to do so within the structure set forth in Section 214(e)(4) of the Act. There should be no concern for a level playing field, however, since Verizon Wireless made this choice when it acquired Alltel.[61] Verizon Wireless obviously believes it is in its private interest to forego receipt of federal USF support in order to complete the acquisition on the terms the Department of Justice and the Commission have agreed to accept.

Carriers such as U.S. Cellular, who are intensely focused on trying to serve rural America by building more cell sites and improving service in areas that would not otherwise get high-quality service, must be permitted to continue to do so. They should not have their plans, which serve the public interest, derailed by Verizon Wireless's private agreement with the government.

VIII. UPDATING THE MODEL USED FOR NON-RURAL AREAS AND EXTENDING ITS USE TO AREAS SERVED BY RURAL TELEPHONE COMPANIES SHOULD BE GIVEN SERIOUS CONSIDERATION.

To follow up on its initial comments, U.S. Cellular notes that the Commission uses a proxy cost model to determine support in areas served by non-rural carriers. That model has not been updated since its inception, despite significant advancements in computing power and mapping capabilities. U.S. Cellular's view is that the Commission should explore whether a model

[61] The Commission also made it clear in approving the Verizon Wireless-Alltel merger that its imposition of the phase-down condition was compelled by the "unique facts and large scope" of the merger. *Id*. at para. 197.

can be developed to determine the efficient cost of providing telecommunications service in rural and high-cost areas.

CostQuest Associates filed comments in this proceeding in which it used existing technology to highlight some significant problems with the Commission's rural/non-rural dichotomy, in particular the differences borne simply out of whether a system owner is classified as a rural or non-rural carrier.[62]

There is much to learn from the CostQuest presentation, notably that the tools which can be used for modeling costs are light years ahead of where they were ten years ago. Moreover, CostQuest's submission raises questions about assumptions the Rural Task Force reached ten years ago concerning whether there is a rational justification for having different funding mechanisms based on ownership. As the CostQuest comments demonstrate, tools are now available that may measure the efficient cost of providing service at a much more granular level, and may be employed to identify high-cost areas more accurately.[63]

Irrespective of whether the Commission chooses to utilize CostQuest's specific work, or that of another company, the thrust of CostQuest's submission should be given consideration before any reform of distribution mechanisms is initiated. Adoption of a model that can accurately determine appropriate amounts of support that should be provided to rural and high-cost areas, and that would be available for disbursement among competing carriers, could be a significant and useful universal service reform because it would aid in preserving and advancing universal service for consumers, while continuing to promote competition among carriers. By contrast, a single-winner reverse auction, as put forth in the Commission's current proposals, has only one

[62] *See* CostQuest Associates Comments at 3-6.

[63] *See id*. at 8-9 (summarizing CostQuest's proposal for the use of an Advanced Services Model).

purpose—to minimize competition. A reverse auction carries with it none of the practical advantages of a proxy cost model, nor does it advance the goals set forth in Section 254 of the Act.

IX. STATEMENTS THAT UNIVERSAL SERVICE MECHANISMS SHOULD NOT "CREATE UNECONOMIC COMPETITION" MUST BE REJECTED.

Some have attempted to rewrite the Telecommunications Act of 1996 ("1996 Act") by claiming that universal service support mechanisms must not create uneconomic competition.[64] U.S. Cellular can find nothing in the Act or the legislative history to support such a view that competition could be deemed "uneconomic." In fact, every word of the 1996 Act evidences an attempt to promote competition throughout every corner of this country, and by promoting the designation of new and multiple competitive ETCs by state commissions and the FCC, Congress made it very clear that rural consumers deserve the benefits of competition that urban consumers today take for granted.[65]

The only way to fulfill Congress's core universal service objective in Section 254(b)(3) of the Act to provide to rural consumers reasonably comparable services, at reasonably comparable prices as are available in urban areas, is by providing carriers the opportunity to compete in rural America the way carriers do in urban areas. Competition coupled with support for rural and high-cost areas is the best way to deliver lower prices and higher quality services to consumers.

The idea that supporting more than one service provider in a rural or high-cost area creates "uneconomic competition" must be seen for what it is: The preservation of an "uneconomic monopoly provider." Preserving monopoly providers anywhere in America should be re-

[64] The Commission itself appears to have tentatively subscribed to this view, suggesting that ridding rural and high-cost areas of "funded competition" would be consistent with the 1996 Act's universal service goals. *See Further Notice* at para. 33.

[65] *See* Centennial Communications Comments at 4 (observing that Section 214(e) of the Act provides for the certification of multiple competing ETCs in the same service area).

served for only the most extreme of rural areas, and only when the marketplace fails. U.S. Cellular strongly believes that the principle of universal service should not be used to constrain consumers to a monopoly service provider except in the most exceptional of circumstances, and U.S. Cellular therefore urges the Commission to reject ***any*** proposal, such as single-winner reverse auctions, that condemns large rural portions of the United States to monopoly service.

X. THERE IS NO BASIS TO CONCLUDE THAT WIRELESS NETWORKS WILL BE VIABLE IN HIGH-COST RURAL AREAS IF SUPPORT IS LIMITED TO ONE-TIME CONSTRUCTION GRANTS.

Wireless networks remain in their early stages in many parts of rural America. They require substantial capital funding and ongoing funding for operations and maintenance to deliver high-quality service. U.S. Cellular has already built and continues to build cell sites in rural areas which may not generate sufficient customer revenues to keep them operational on a high-quality basis into the future. Continued support in high-cost and sparsely populated areas will be required to operate and maintain such cell sites, and the Commission therefore should be extremely cautious in assessing arguments that only initial construction should be supported and that ongoing support should be curtailed or eliminated.

Some have proposed a policy of one-time grants, with no further funding for operations and maintenance.[66] There is no record evidence in this proceeding that one-time grants will provide sufficient support to enable carriers to construct throughout rural America high-quality networks and keep them going with high-quality service, including the inevitable need for upgrading in the future.

U.S. Cellular notes here that the principle of providing ongoing support for operations, maintenance, and upgrading has been long accepted. As an example, wireline carriers have con-

[66] *See* Verizon & Verizon Wireless Comments at 30.

tinued to receive support even though their initial early technology networks were constructed several decades ago. At a minimum, the Commission would need to seek to develop a record before proceeding to use support to fund only one-time construction grants, and U.S. Cellular believes such a record would be extremely hard to produce.

XI. CONCLUSION.

U.S. Cellular respectfully urges the Commission to delay any action on its pending universal service reform proposals. As various commenters have observed, numerous factors support such a delay, not least of which is the fact that the Commission's rushed timetable has not given adequate time for the production of an informed and well-developed record on the issues.

If the Commission does seek to press ahead with action in the coming weeks, then U.S. Cellular respectfully requests that the Commission be responsive to commenters who have argued that the Commission should arrive at even-handed reforms that protect consumer interests and, true to the Commission's own policies and the statutory mandate, enable competition to serve as an engine for delivering broadband and high-quality services at affordable prices in rural and high-cost areas across the nation. If immediate action is necessary, the U.S. Cellular Broadband Proposal provides appropriate first steps for improving universal service in rural America.

Respectfully submitted,

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December 22, 2008