

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

COMMENTS OF THE
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

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SUMMARY

The Independent Telephone & Telecommunications Alliance (ITTA) responds to the Commission's Notice of Inquiry regarding the need to provide sufficient universal service fund (USF) support to non-rural high-cost areas. In these comments, ITTA proposes a USF plan that incorporates aspects of proposals that have been filed by other parties, but in a combined and modified manner that will bring targeted USF support to high-cost areas served by price-cap carriers, amend the manner in which support is provided to competitive eligible telecommunications carriers (CETCs), and invest in broadband deployment across the Nation, without producing significant impacts on the size of the USF.

In summary, the ITTA plan incorporates the Broadband and Carrier-of-Last-Resort Support (BCS) Solution filed by Embarq on September 18, 2008, but with one modification—ITTA recommends that the Commission decline the broadband component included in Embarq's BCS Solution, and instead adopt the Broadband Pilot Program (BPP) proposed by Qwest Communications on July 9, 2007. ITTA, however, urges a modification to the Qwest BPP: rather than funding the BPP using savings from imposing the restriction on funding multiple ETC handsets, ITTA proposes that the Commission should instead fund the BPP through normal USF operations. ITTA also includes in its proposal a reiteration of its request that the Commission eliminate the identical support rule. The ITTA proposal corrects USF mechanisms to account for competition in urban areas, and ensures that carriers serving high-cost areas are able to obtain support based on the specific characteristics of the areas they serve. Moreover, the ITTA proposal responds to decisions of United States Court of Appeals for the Tenth Circuit.

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I. INTRODUCTION

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits these comments in response to the Commission’s Notice of Inquiry (NOI) in the above-captioned dockets.¹ ITTA is an alliance of mid-size telephone companies who collectively serve approximately 30 million access lines in 44 states, and offer subscribers a broad range of high-quality wireline and wireless voice, data, Internet, and video services.

ITTA members include rural rate-of-return, rural price-cap, and non-rural price-cap carriers, which obtain Universal Service Fund (USF) support through various mechanisms. Many areas served by ITTA members, however, do not receive sufficient USF support. The challenges posed by insufficient support have been occasioned in large measure by the absence of a judicially-approved mechanism² for delivering support to non-rural high-cost areas.

¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service Support: Notice of Inquiry*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 09-28 (rel. Apr. 8, 2009) (NOI).

² See, *Qwest Communications Int’l. Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) (Tenth Circuit remand, or, *Qwest II*).

Proper resolution of the instant matter must result ultimately in a non-rural, high-cost USF mechanism that is consistent with the Communications Act of 1934, as amended.

II. THE ITTA PLAN INCORPORATES ELEMENTS OF VARIOUS PROPOSALS TO PROVIDE A BASIS FOR COMPREHENSIVE REFORM AND A SOLUTION TO THE TENTH CIRCUIT REMAND

The Commission seeks comments on various proposed solutions to the Tenth Circuit remand, specifically, to implement a USF mechanism that advances and preserves universal service in non-rural, high-cost areas. Proposals have been filed, over a period of years, by Qwest Communication Corp.,³ Embarq,⁴ CostQuest,⁵ and state agencies of Maine and Vermont.⁶ All note the need for Commission action; all recognize the imperative to ensure that carriers serving high-cost areas across the Nation have access to sufficient support. Certain of the proposals, taken together and modified, offer a solution that provides proper resolution of the Tenth Circuit remand and a gateway to comprehensive USF reform and broadband deployment. In this regard,

³ See, Letter from Steven Davis, Senior Vice President – Federal Relations, and Shirley Bloomfield, Senior Vice President – Public Policy, Qwest, to Marlene H. Dortch, Secretary, Federal Communications Commission, Docket No. 96-45, Docket No. 05-337 (May 5, 2008).

⁴ See, Letter from David C. Bartlett, Vice President – Federal Government Affairs, to Chairman Kevin J. Martin, Commissioner Michael J. Copps, Commissioner Jonathan S. Adelstein, Commissioner Deborah Taylor Tate, and Commissioner Robert M. McDowell, Federal Communications Commission, Docket No. 96-45, Docket No- 05-337 (Sep. 18, 2008).

⁵ See, *High-Cost Universal Service Support (Docket No. 05-337); Federal-State Joint Board on Universal Service (Docket No. 96-45); Lifeline and Link-Up (Docket No. 03-109); Universal Service Contribution Methodology (Docket No. 06-122); Numbering Resource Optimization (Docket No. 99-200); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (Docket No. 96-98); Developing a Unified Inter-carrier Compensation Regime (Docket No. 01-92); IP-Enabled Services (04-36): Comments of CostQuest Associates* (Nov. 28, 2008).

⁶ See, *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service Support: Comments of Vermont Public Service Board, Vermont Department of Public Service, and Maine Public Utilities Commission*, WC Docket No. 05-337, CC Docket No. 96-45 (Mar. 26, 2006).

ITTA filed with the Commission in October 2008 a USF plan that blends the Qwest and Embarq proposals.⁷ That proposal contemplates a comprehensive approach to USF reform that addresses both the Tenth Circuit remand and other issues related to USF reform. The approach addresses USF support in a manner that embraces broadband deployment; stems rising costs that are associated with numerous providers in a single area receiving support; looks toward population density as a proxy for costs as the basis for support; and, does not result in a costly overall impact on the USF.

The ITTA approach (1) targets high-cost loop support to high-cost wire centers (not study areas) where it is needed most; (2) fosters deployment of broadband services in unserved rural areas throughout the Nation; and (3) rationalizes USF support in rate-of-return areas by supporting all eligible telecommunications carriers (ETCs) according to their own costs rather than using the costs of the incumbent ETC. The ITTA plan incorporates the Broadband and Carrier-of-Last-Resort Support (BCS) Solution filed by Embarq on September 18, 2008,⁸ but with one modification—ITTA recommends that the Commission decline the broadband component included in Embarq’s BCS Solution, and instead adopt the Broadband Pilot Program (BPP) proposed by Qwest Communications on July 9, 2007.⁹ ITTA, however, urges a modification to the Qwest BPP: rather than funding the BPP using savings from imposing the restriction on funding multiple ETC handsets, ITTA proposes that the Commission should

⁷ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service Support: Ex Parte of the Independent Telephone & Telecommunications Alliance*, Docket No. 05-337, Docket No. 96-45 (Oct. 10, 2008).

⁸ *Supra*, n.4

⁹ *Federal-State Joint Board on Universal Service: Ex Parte of Qwest*, Docket No. 96-45 (Jul. 9, 2007).

instead fund the BPP through normal USF operations. ITTA also includes in its proposal a reiteration of its request that the Commission eliminate the identical support rule.¹⁰

In brief, the ITTA proposal would:

From the Embarq BCS Solution-

- Combine all of the price-cap study areas in a new mechanism (the BCS) that replaces the non-rural mechanism, and consolidate all rate-of-return study areas, including non-rural rate-of-return study areas, in the current Rural Loop mechanism, where high-cost support will operate as it does today.
- Fund the BCS with \$1 billion—the sum of current loop/model support to price-cap areas, plus wireless access replacement support (per the Identical Support NPRM, which recommends stopping the provision of access replacement support to CETCs).¹¹ The re-direction of these amounts would confirm the Commission’s commitment to restore rationality to USF processes. There is no rational basis for providing to wireless CETCs access replacement support, since those carriers never received, nor have been in a position to receive, access revenues. The disbursement of access replacement support to wireless carriers is a paradigmatic example of the flaws inherent in the identical support rule.
- Distribute the support in fixed sums to the lowest-density wire centers (using HCPM loop output as a proxy and re-evaluating every 5 years). Distribution at the wire center level does not necessarily reveal the finest level of granularity, but it certainly discloses on a more focused basis those areas that are truly high-cost and in need of support when compared against broader geographic assessments that arise out of study area averaging.
- Require each recipient to:
 - Maintain basic rates within the range bounded by the highest and lowest sampled rates on a Commission-created table of sampled urban rates. One alternative rate comparison would be what the BCS recommended, which is the Commission-published table of selected urban rates. ITTA recommends that the Commission, within the context of this NOI, examine other alternatives, as well, such as sampling the standard bundled local, feature, and

¹⁰ 47 C.F.R. § 54.307.

¹¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service Support: Notice of Proposed Rulemaking*, Docket No. 05-337, Docket No. 96-45, FCC 08-4, at para. 23 (Jan. 29, 2008) (*Identical Support NPRM*).

long-distance packages that are commonly available in both urban and rural areas; and

- Serve the entire wire center within 5 years using only its own facilities.
- Select a single CETC if it makes the same commitment, in which case the CETC and the ILEC would divide equally the support allocated to the wire center. If there is more than one CETC, then the CETC recipient is to be chosen by the ETC designating body (*e.g.*, state commission), perhaps using auctions or an RFP. This approach would meet the Act's mandate regarding USF support for competitive carriers,¹² but would constrain USF size by limiting the number of ETCs eligible for support in a single area; limiting the amount of support available to both carriers; and, placing clear and enforceable obligations on the ETCs.

From the Qwest Broadband Pilot Program-

- Create a new \$500 million Broadband Pilot Program, funded without drawing support from another USF mechanism.
- Distribute support through the BPP to states based on relative percentage of unserved areas.
- Have states select the recipients for one-time payments through a competitive bidding process.
- Permit BPP support to be used only for infrastructure deployment in support of the designated level of broadband service.
- Permit BPP support to be distributed only to projects in areas that are unserved by terrestrial broadband, and the program would terminate when there are no more unserved areas.
- Allow states to petition to use a portion of the Broadband Pilot Program support for wireless broadband.

On Identical Support-

- Eliminate the identical support rule and require ETCs to show their actual costs where support is calculated based on costs (accordingly, this outcome would not apply to areas covered by the BCS).¹³

¹² See 47 U.S.C. §§ 214(e), 254(e).

¹³ For a discussion of ITTA's opposition to the Identical Support Rule, please see *Federal-State Board for Universal Service: Comments of the Independent Telephone & Telecommunications Alliance*, Docket No. 96-45, Docket No. 05-337, at pp. 25-31 (filed Apr. 17, 2008).

Together, the modified Embarq and Qwest proposals, coupled with the elimination of the identical support rule, form a comprehensive USF distribution reform package. Embarq's BCS Solution addresses USF issues that are important to consumers in high-cost areas served by price-cap local exchange carriers; Qwest's Broadband Pilot Program would benefit consumers in all unserved areas; and the elimination of the identical support rule would overcome public policy concerns in areas served by local exchange carriers subject to rate-of-return regulation even if the Commission adopts the BCS solution. Adoption of this multi-prong proposal now offers a rare opportunity for the Commission to achieve multiple public policy, statutory, and judicially-ordered goals in *all* high-cost areas with a minimum impact on the size of the Fund. Indeed, this combination of proposals will advance the interests of customers located in these areas by fostering accelerated broadband deployment and ensuring the stability of the USF. Although it is ITTA's recommendation that the Commission take the Court remand as the opportunity to adopt the ITTA or similar proposals regarding comprehensive reform, if the Commission limits its decision to address only the current non-rural funding mechanism, then it should, at minimum, permit an initial, one-time election of rural price-cap companies to transition to the non-rural mechanism, including grant of any pending petitions for rural price-cap carriers to receive high-cost support through the non-rural mechanism. Adoption of the ITTA proposal makes moot the debate on the use of auctions to allocate USF support, resolves the identical support issue, and effectively eliminates the parent trap.¹⁴

Importantly, the combined proposals would not have a major impact on overall USF funding. Rather, the proposal echoes ITTA's previous call for more rational distribution of USF

¹⁴ 47 C.F.R. § 54.305.

resources, including but not limited to funding no more than two carriers (which would often be one landline and one wireless carrier) in any single exchange service area, and eliminating access-replacement support for wireless carriers. Cost savings achieved through these modifications would be used to assure support for high-cost exchange areas and to facilitate further broadband deployment. This new stability and focus for the USF should greatly improve the likelihood of ubiquitous landline and wireless broadband availability and competition. At the same time, the ITTA proposal maintains a commitment to the provision of voice services.

The Commission must not be misled into policies that abandon support for voice services. Increasing subscriptions to broadband-based data services and reliance on e-mail and various IP-enabled forms of communication all depend upon the same networks that provide basic voice services. Sufficient support is necessary to ensure the viability of the underlying network, and the Commission must enact policies that reflect this reality. The net result of the ITTA plan will be the assurance of (a) sufficient support for wireline voice networks that can be leveraged to provide a basis for broadband, and (b) intensive one-shot infusions to deploy necessary broadband infrastructure in unserved areas.

III. THE ITTA PROPOSAL MEETS THE COURT'S DIRECTIVE TO CONSIDER MORE SUB-SECTIONS OF 47 U.S.C. 254(b)

The Commission was ordered by the United States Court of Appeals for the Tenth Circuit to consider all of the sub-sections of 254(b) as it crafted a new non-rural high-cost mechanism.¹⁵ In response, the Commission now asks how it might consider a hierarchy among the relevant sub-sections.¹⁶

¹⁵ *Qwest II* at 398 F.2d 1222, at 1237.

¹⁶ *NOI* at para. 17.

A. TARGETING ADVANCES UNIVERSAL SERVICE.

The Commission asks whether “reasonably comparable” should reflect the Court’s disapproval of the Commission’s prior non-rural high-cost efforts, which were described as preserving USF, but not advancing it.¹⁷ Specifically, the Court indicated that the Commission’s adoption of a two-deviation standard did not narrow the gap between urban and rural rates sufficiently (despite the fact that there may, in fact, be little or no such gap, with both urban and rural rates exhibiting significant variability), and thereby did not meet the statutory mandate to “advance” USF. On that basis, the Commission now seeks comment on the suggestion that narrowing the rate gap serves the mandate of advancing USF.

ITTA submits that, primarily, the advancement of universal service is realized through the targeting aspects of the ITTA proposal, described in Section II, above. The delivery of USF in a targeted fashion to the areas that need it most is the best expression of “advancement,” since the targeting improves the *status quo* of distribution (and consequent USF benefits that accrue thereby) by bringing *newly delivered* support to areas that heretofore did not receive sufficient high-cost support. This new distribution regime accordingly introduces to these areas benefits that had been previously unavailable. This improvement is consistent with the Act’s mandate to advance universal service, specifically, to improve and move it beyond where it is today.

Targeting is necessary because averaging deprives carriers serving a mix of urban and rural areas the opportunity to obtain the appropriate amount of necessary support in their high-cost areas. In many areas, competitors focus customer acquisition efforts in densely populated urban areas, but ignore, because they are not subject to carrier of last resort (COLR) obligations, the lightly populated surrounding rural areas. As a result, COLRs that previously could integrate

¹⁷ *NOI* at para. 14.

revenues from dense urban areas to offset un-recovered costs in sparsely populated rural areas can no longer rely upon the revenue contribution from customers in urban areas because burgeoning competition has depleted the urban sources that would have been available.

Accordingly, as competition, a goal of the Act, is realized, universal service, another goal of the Act, suffers. Targeting, which under the ITTA proposal would not increase the size of the USF, addresses this phenomenon equitably by distributing support to wire-centers on an objective population density basis. This new approach to USF distribution advances universal service by bringing fuller benefits of universal service to areas that had received lesser levels under the current formulae.

B. THE ITTA PROPOSAL ADDRESSES NUMEROUS PRINCIPLES OF SECTION 254(b).

In *Qwest II*, the Tenth Circuit directed the Commission to consider all sub-sections of 254(b) in determining whether the non-rural high-cost mechanism is “sufficient,” rather than only the principle of 254(b)(3), “reasonable comparability.” Analysis of each principle vis-à-vis the ITTA proposal will reveal that the ITTA plan, which blends the comprehensive Embarq and Qwest proposals, addresses multiple principles, and is accordingly consistent with the statute and suited to fulfillment of the goals established therein.

1. Affordability

In addition to looking to the Lifeline/Link-Up programs to ensure affordability, the ITTA plan’s targeting of support to the areas that need it most will advance this statutory goal. The application of USF support to these areas enables carriers to relieve pressure on end-user rates that would otherwise be affected by the so-called “donut” characteristics of many ITTA member service areas. The “donut” describes the image of a region that emerges when the service areas of the ILEC and competitive carriers are compared. Predominantly, competitive carriers serve

the inner core of the region, often the densely populated city or town area, while the surrounding high-cost, sparsely populated ring, or “donut,” is served only by the incumbent carrier which is required to do so by pursuant to its COLR obligations. In these circumstances, the ILEC’s ability to offset the costs of serving the “donut” with revenues from the “hole” diminishes as competitive carriers obtain the low-cost customers in the city or town core, leaving for the incumbent fewer low-cost customers to counter-balance the more expensive-to-serve customers beyond the core.

This phenomenon was recognized at the dawn of telecom competition. In the first USF *Report and Order*, the Commission explained,

implicit subsidies were sustainable in the monopoly environment because some consumers (such as urban business customers) could be charged rates for local exchange and exchange access service that significantly exceeded the cost of providing service, and rates paid by those customers would implicitly subsidize service provided by the same carrier to others. By adoption of the 1996 Act, Congress has provided for the development of competition in all telephone markets . . . today’s pillars of implicit subsidies – high access charges, high prices for business services, and the averaging of rates over broad geographic areas – will be under attack.¹⁸

Targeting support at the wire-center basis, rather than relying on state-wide averages, would reflect the fact that many exchanges served by price-cap carriers are extraordinarily high-cost to serve, and would enable proper support to be directed to those areas. This targeting is consistent with affordability because it reduces the pressures on end-user rates in those areas.

The principle of affordability is also fulfilled by the ITTA proposal, above, that limits in BCS areas distribution of support to the ILEC COLR and a single CETC (as may be present). Dividing that support between those two carriers, rather than providing identical support to

¹⁸ *Federal-State Joint Board on Universal Service: Report & Order*, Docket No. 96-45, FCC 97-157, at para 17 (1997).

numerous carriers serving a same area, could ultimately lead to decreases in the contribution factors that are ultimately paid by consumers. This meets the demands of the Tenth Circuit which admonished policy makers to include in “affordability” the level of USF contributions paid by end-users.¹⁹

2. Access to Advanced Services

The ITTA plan contemplates and supports the principle of “access to advanced services” by targeting support to high-cost areas and enabling the carriers in those areas to leverage supported facilities to benefit advanced services. The ITTA plan’s proscription on supporting numerous carriers in a single BCS service area strengthens the Fund and ensures that sufficient support is available to carriers who can then direct other resources to advanced services. Carriers whose urban center revenues no longer offset adequately the higher costs of sparsely populated rural areas lack proper resources and, consequently, incentives to invest more deeply in the rural areas. Absent revenue streams sufficient to support or otherwise justify the deployment of advanced networks, carriers may either delay deployments, implement deployments at a slower rate, or sell individual high-cost exchanges to smaller carriers (notwithstanding the handicap imposed by the parent trap rule).²⁰

As the Commission asks whether it should move forward with a more comprehensive reform of high-cost support, it reminds commenters that its decision in this proceeding should be consistent with its “longer term goal” of developing a comprehensive National broadband plan.²¹

¹⁹ “[E]xcessive subsidization arguably may affect the affordability of telecommunications services for unsubsidized users, thus violating the principle in [section] 254(b)(1).” *Qwest II*, 398 F.3d 1222, at 1234.

²⁰ 47 C.F.R. § 54.305.

²¹ *NOI* at para. 21.

The ITTA proposal is consistent with both comprehensive reform and long-term broadband plans. After targeting high-cost support to the non-rural/price-cap areas where it is needed most, ITTA proposes the BPP, which is a highly efficient targeted mechanism that injects infrastructure-oriented support into markets on a one-shot basis. This is one aspect of fulfilling the overall goal of increasing broadband penetration throughout the Nation.

3. Access in Rural and High-Cost Areas

Targeting support on a wire-center basis, based on population density, will increase the amount of support to high-cost areas that need it most. Support to rural rate-of-return areas has been addressed; the Commission should take this opportunity to correct the problems with inadequate support being provided to rural areas of many price-cap carriers, and to implement the proposals outlined in this filing. The ITTA proposal supports the principle of promoting access in rural and high-cost areas precisely because it targets support to those areas. Moreover, the ITTA plan ensures that support gets to the lowest-population density areas by imposing regular periodic reassessments of the target area.

As noted above, distribution at the wire center level does not necessarily reveal the finest level of granularity, but it does disclose on a more focused basis those areas that are truly high-cost and in need of support when compared against broader geographic assessments that arise out of state-wide and study area averaging. And, while many characteristics combine to create cost requirements in rural areas (*e.g.*, topography and terrain), population density is a readily-quantifiable and objective measure that is a factor in determining costs to serve. The occasion of fewer customers in any fixed-network results in higher per-customer costs than would be obtained in more densely populated regions. The Commission has previously found that “cost

differences caused by differing loop lengths are the most significant cost factor.”²² And, as noted previously by ITTA, the Government Accountability Office (GAO) stated within the context of broadband discussions, the most frequently cited cost factor affecting broadband deployment [is] the population density of a market . . . the cost of building a broadband infrastructure in areas where people live farther apart is much higher than building infrastructure to the serve the same number of people in a more urban setting.”²³ The distribution of support via the ITTA proposal would fulfill the principle of access in high-cost and rural areas by targeting sufficient support on the basis of population density, a factor noted previously by the Commission and the GAO.

4. Equitable and Non-Discriminatory Contributions

This principle is not related specifically to the distribution of high-cost support to non-rural areas.

5. Specific, Predictable, and Sufficient Federal and State Mechanisms to Preserve and Advance Universal Service

The ITTA proposal supports the multiple components of this sub-section: the targeting of support on a wire-center basis increases the **specificity** with which support is delivered by narrowing the focus and eliminating inefficiencies borne of averaging that is applied over a broader geographic range; the support is **predictable** because support is based on ascertainable

²² *Federal-State Joint Board on Universal Service; Forward Looking Mechanism for High-Cost Support for Non-Rural ILECs: Fifth Report and Order*, Docket No. 96-45, FCC 98-279, at para. 75 (1998).

²³ *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: Comments of Independent Telephone & Telecommunications Alliance*, Docket No. 07-45, at 1, 2 (Sep. 17, 2008), quoting “Broadband Deployment is Extensive Throughout the United States, But it is Difficult to Assess the Extent of Deployment Gaps in Rural Areas,” Government Accountability Office, at 19 (Washington, DC) (2006).

metrics (wire center population density) and tied to performance requirements imposed on the recipient; it is **sufficient** because meets the needs of carriers on a focused basis that contemplates the unique costs of specific wire centers.

The ITTA proposal envisions \$1 billion of support for price-cap areas, the result of existing non-rural high-cost model funds currently received by price-cap carriers that would move to the high-cost model funding, supplemented by access replacement support currently paid to CETCs, which the Commission has tentatively concluded should cease.²⁴ ITTA does not propose that this amount is equal to the cost of providing service in the relevant areas; rather, as noted in *Qwest I*, the Commission may balance “sufficiency” against constraints such as overall Fund size or the burden shouldered by contributors.²⁵ In the instant matter, ITTA has balanced the Commission’s interest in controlling the size of the Fund,²⁶ with the imperative to deliver support where it is needed most. The ITTA proposal (similar to the Embarq plan on which it is partly based) refines this balancing of priorities by instituting a regular periodic review of the wire centers to determine the extent of necessary on-going support.

6. Access by Schools, Libraries, and Rural Health Care Providers

This principle is not related specifically to the distribution of high-cost support to non-rural areas.

²⁴ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service Support: Notice of Proposed Rulemaking*, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-4, at para. 23 (Jan. 29, 2008).

²⁵ *Qwest Corporation v. FCC*, 258 F.3d 1191, at 1199, 1200 (10th Cir. 2003) (*Qwest I*).

²⁶ *See, e.g., Identical Support NPRM*, at para. 4.

7. Additional Principles as May Be Identified by the FCC

The ITTA proposal recognizes and accommodates the principle of competitive neutrality by distributing any CETC a full one-half of an area's USF support if that CETC meets the same conditions as bind the ILEC. This approach is a better fulfillment of this principle than the misguided and flawed identical support rule, as addressed in comments filed previously by ITTA.²⁷

C. ADDITIONAL ISSUES

Data Collections

The Commission asks whether it should collect additional data that would inform an affordability benchmark.²⁸ The Commission should not require carriers to submit additional data. Moreover, the collection of additional data would likely require additional steps, since the analysis of rate comparability among differently bundled services would likely demand development of an appropriate algorithm that accounts for differences in bundles of services and their relative pricing. To the extent, however, the Commission would impose any new data collection requirements, all providers whose services are contemplated within the gambit of "comparable services" should be required to submit data.

Impact on Contributors

The Commission also asks whether it should consider the burden on contributors when determining whether rates are affordable for purposes of the non-rural support mechanism.²⁹

²⁷ See, generally, *Federal-State Board for Universal Service: Comments of the Independent Telephone & Telecommunications Alliance*, Docket No. 96-45, Docket No. 05-337, at pp. 25-31 (filed Apr. 17, 2008).

²⁸ *NOI* at para. 19.

²⁹ *NOI* at para. 20.

The impact on contributors should be considered, but within the context of the commensurate benefits, *e.g.*, a fractional contribution factor increase on an end-user's bill may translate into higher-value effects in the non-rural high-cost area. Nevertheless, ITTA has consistently urged control of unnecessary growth of the USF, and accordingly the ITTA plan contemplates the burden on contributors by limiting USF support to a maximum of two providers per BCS area, and by dividing among those two providers the amount of support allocated to that area, rather than providing numerous multiple providers proportionally-equal amounts of support.³⁰

ITTA Proposal as Basis for Comprehensive Reform

The FCC asks whether, as it crafts a new support mechanism, it should modify the existing mechanism for non-rural carriers pending comprehensive reform, or whether it should replace the current non-rural mechanism with a new mechanism that could become a basis on which to craft more comprehensive reform.³¹ ITTA submits that its proposal creates new mechanisms, modifies existing processes, and in sum provides a basis upon which the remainder of comprehensive reform can be established.

The ITTA plan recommends implementation of a non-rural high-cost plan that would also embrace rural price-cap carriers; non-rural rate-of-return carriers would be shifted to the same regime as governs rural rate-of-return carriers. Doing so would begin to ease differences based on "rural" and "non-rural," and would instead distribute support to carriers in a manner that reflects whether the carrier serves low-density areas. For price-cap carriers, high-cost support

³⁰ See, *e.g.*, *Qwest II*, 398 F.3d 1222, at 1234 ("[E]xcessive subsidization arguably may affect the affordability of telecommunications services for unsubsidized users, thus violating the principle in 254(b)(1).")

³¹ *NOI* at para. 22.

mechanisms would be based on a wire-center basis, rather than broader geographic area basis.

The ITTA proposal described above relieves many of the challenges the Commission might face in regard to establishing a new funding mechanism because it does not rely upon “new” funding. Rather, it draws from support already delivered to price-cap carriers, and re-directs access-replacement support to the new price-cap support mechanism. Accordingly, the ITTA proposal increases the Commission’s flexibility to achieve reform in other areas since the ITTA proposal does not invoke financial commitments that could act as constraints to achieving reform in other aspects. As such, the ITTA proposal can serve as the initial phase of a larger transition.

Role of the States

The Commission seeks comment on whether it should re-evaluate its conception of the state and Federal roles in providing universal service support, and consider whether it should now replace implicit state support with explicit Federal support.³² *Qwest I* rejected the notion that the Federal side must bear all costs of universal service,³³ and *Qwest II* held that the Commission does not have any obligation to ensure that states transition from implicit to explicit mechanisms.³⁴ Consistent with these rulings, the Commission should adopt the ITTA proposal, which does not implicate state support processes. The ITTA plan does not compel states toward any particular responsive action, except to include states in the process of determining which of multiple CETC applicants would obtain the 50 percent share of USF support in instances in which the CETC commits to the ITTA-proposed requirements.

³² *NOI* at para. 22.

³³ *Qwest I*, 258 F.3d 1191, at 1203.

³⁴ *Qwest II*, 393 F.3d 1222, at 1230-33.

Cost Models

The Commission seeks comment on whether, and if so, how, it can update its cost models; alternatively, the Commission asks whether it could use a simplified model or algorithm that would incorporate factors such as population density, terrain, and climate conditions, as well as other indicators, including those that could serve as sources for potential revenues, and other carrier-specific and general inputs.³⁵ As described above, ITTA supports the limited use of the loop cost output from the HCPM in order to establish relative densities for price-cap high-cost areas. This data does not need to be updated at this time as it evolves relatively slowly. Indeed, older data may be preferable as loop counts from several years ago may be more likely than current loop counts to track household densities in areas that have experienced substantial competition.

³⁵ *NOI* at para. 24, *et seq.*

III. CONCLUSION

The ITTA proposal responds to the *NOI*, and will enable sufficient USF support to high-cost areas served by price-cap carriers, amend the manner in which support is provided to competitive eligible telecommunications carriers (CETCs), and invest in broadband deployment across the Nation, without producing significant impacts on the size of the USF. Accordingly, ITTA urges adoption of its proposal that meets the goals of the Act within the framework of a stable USF.

Respectfully submitted,

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