**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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

**COMMENTS OF IOWA TELECOMMUNICATIONS SERVICES, INC.**

Iowa Telecommunications Services, Inc. ("Iowa Telecom") hereby files these comments in response to the Federal Communications Commission's ("Commission's" or "FCC's") Notice of Inquiry in the above-captioned proceeding.[1] The *Notice* seeks comments to refresh the record in the above-captioned proceedings in order to respond to the court of appeals' remand of the Commission's implementation of the non-rural support mechanism for high cost loop support in the Universal Service Fund ("USF").[2] The FCC should take this opportunity to modify the high cost loop mechanism to better address support for rural, high cost, and insular areas of price cap companies, which will both address current problems for rural price cap companies, but also those facing nonrural price cap companies.

As the incumbent local exchange carrier ("ILEC") operating in three price cap rural study areas in Iowa providing service to over 400 rural Iowa communities, Iowa Telecom is very concerned that existing programs, such as the USF, do not adequately "preserve and advance"

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1 *High-Cost Universal Service Support*, WC Docket No. 05-337, FCC 09-28 (rel. Apr. 8, 2009)("*Notice*").

2 *Qwest Communications Int'l, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) (*Qwest II*). The FCC requested comments on this remand four years ago. *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, CC Docket No. 96-45, WC Docket No. 05-337, Notice of Proposed Rulemaking, 20 FCC Rcd 19731 (2005) (*Remand NPRM*). Iowa Telecom previously commented in that rulemaking and it incorporates by reference its comments submitted in 2005. Comments of Iowa Telecommunications Services, Inc., WC Docket No. 05-337 (filed Mar. 27, 2006).

universal service, as required by 47 U.S.C. § 254. The FCC should adopt new rules on remand from the *Qwest II* court in order to meet the already-demonstrated need for immediate USF reform to aid rural economic development and broadband deployment by price cap companies, particularly in Iowa. In order to advance this public policy goal, Iowa Telecom urges the Commission to adopt Embarq's Broadband and Carrier-of-Last-Resort ("BCS") Solution. Adopting the BCS Solution will not only adequately address the *Qwest II* court's questions, but also address other critical problems facing rural price cap properties. Further, as discussed below, if the Commission cannot adopt the Embarq BCS plan promptly, it should grant the waiver petition filed by Iowa Telecom which would allow Iowa Telecom to be treated as a non-rural carrier for purposes of high-cost loop support.[3]

## I. INTRODUCTION

Iowa Telecom is dedicated to providing excellent service to its rural and small town customers, which it acquired from GTE in 2000. Since then, Iowa Telecom has invested more than $170 million to modernize the network that it purchased from GTE and to make its network capable of providing technologically advanced voice and broadband services. Although this investment has produced improved service for many Iowans, the company has not been able to invest at levels which would accelerate broadband service to even more subscribers. Although broadband service is available in every Iowa Telecom exchange, roughly 20% of Iowa Telecom's access lines are not DSL-qualified due either to the length or mechanical condition of

[3] Iowa Telecom Petition for Interim Waiver of the Commission's Universal Service High-Cost Loop Support Mechanisms, WC Docket No. 05-337 (filed May 8, 2006)("Iowa Telecom Waiver Petition").

their copper loop.[4] Further, many of the customers who are DSL-qualified are currently limited to maximum download speeds of below 1.0 mbps because interoffice facilities serving the community in which they live are not provisioned via fiber facilities. These conditions are likely to remain for some time in the future absent federal funding in addition to the limited amount of Interstate Access Support that Iowa Telecom receives today.

Iowa Telecom clearly serves more remote wire centers. At the end of 2008 it provided service in approximately 286 exchanges, and no market with a population greater than 16,000. Iowa Telecom's teledensity, the number of access lines served per square mile, is a mere 9.8. Although it serves these rural territories, it has been regulated as a price cap carrier from its inception, just have other much larger nonrural carriers.

It has been well documented that the country is facing one of the worst economic crises since the Great Depression. Although there are positive signs that the country is now poised to move in a positive direction, further economic weakness is expected. Any economic crisis tends to hit rural Americans harder than urban or suburban Americans, in part, because rural residents often are located far from potential jobs, educational resources and entertainment. Enabling the provision of an advanced and robust network will go far toward promoting rural development that can aid in moving past these economic conditions. Providing sufficient high cost loop support for rural America, as well as other governmental mechanisms,[5] can go far to address the deficiencies in the existing system.

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[4] These figures, as well as all other figures in these Comments, refer to Iowa Telecom's price cap carrier operation, which comprises the overwhelming majority of its operations.

[5] For example, the American Recovery and Reinvestment Act of 2009 can provide substantial additional assistance in building this robust network that is also capable of expanding broadband services for rural Americans. Pub. L. No. 111-5, 123 Stat. 115 (2009)("Recovery Act").

## II. EXISTING UNIVERSAL SERVICE POLICIES UNDERMINE THE PROVISION OF VOICE AND BROADBAND SERVICES TO UNSERVED RURAL COMMUNITIES.

The *Notice* focuses primarily on high cost loop support provided to nonrural carriers. Notwithstanding, the *Notice* correctly points out that the FCC is currently considering comprehensively reforming high cost support of universal services for all carriers.[6] The *Notice* asks what role such comprehensive reform should have on the *Qwest II* remand questions, and whether it should respond by comprehensively reforming universal service, and not just nonrural high cost loop support.[7]

Iowa Telecom has been on record as supporting comprehensive reform of universal service.[8] The FCC should adopt comprehensive reform to ensure that voice and broadband services can remain affordable in high cost, rural, and insular areas of the country. Universal service high-cost loop support has been essential to ensuring that rural Americans receive modern and advanced telecommunications.[9] The USF has been instrumental in allowing

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6 *High-Cost Universal Service Support*, WC Docket No. 05-337, Notice of Proposed Rulemaking, 23 FCC Rcd 1467 (2008) ("*Identical Support Rule Notice*"); *High-Cost Universal Service Support*, WC Docket No. 05-337, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) ("*Reverse Auctions Notice*"); *High-Cost Universal Service Support*, WC Docket No. 05-337, Notice of Proposed Rulemaking, 23 FCC Rcd 1531 (2008) ("*Joint Board Comprehensive Reform Notice*") (collectively, "*High-Cost Support Reform NPRMs*"). In addition, the Commission issued a further notice of proposed rulemaking seeking comment on comprehensive universal service and intercarrier compensation reform on November 5, 2008. *High Cost Universal Service Reform*, CC Docket No. 96-45, et. al., Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, FCC 08-262 (rel. Nov. 5, 2008) ("*Comprehensive Reform FNPRM"*).

7 *Notice* at ¶ 21.

8 Comments of Iowa Telecommunications Service, Inc., CC Docket No. 05-337, at 9 (Nov. 26, 2008).

9 Section 254 of the Communications Act obligates the FCC, in conjunction with the Federal-State Joint Board, to devise mechanisms that promote the availability of affordable telecommunications and advanced services to consumers located in rural, high cost, and insular areas of the country. 47 U.S.C. § 254.

companies to build infrastructure, particularly wireline infrastructure, that is capable of delivering broadband to rural geographic areas. A study by Balhoff, Rowe, and Williams established this close nexus between receipt of these funds and telecommunications development.[10] The FCC should continue this policy mechanism that is so important to building vital network infrastructure in rural America.

Despite the clear linkage between USF receipts and advanced services deployment, not all Americans living in rural areas served by price cap carriers are able to realize the benefits of this program. In fact, through a quirk of existing rules, certain rural carriers, such as Iowa Telecom, receive no high-cost loop support for rural networks that are built out to the most remote customers, the very mandate contained in Section 254 of the Communications Act of 1934, as amended ("Act"). The result of these rules serves to penalize rural customers served by carriers which are not eligible to receive USF funding as a result of existing rules and deprive them of the benefit of advanced communications services, including broadband.

Existing FCC USF rules stand in the way of supporting and encouraging investment in rural network infrastructure. For instance, a rural telephone company may receive universal service support only if its net investment exceeds the "national average," a figure that is indexed to a much higher level to fund support only below a certain cap.[11] If investment in network infrastructure has been inadequate for years, such as has been the case with exchanges sold by

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[10] M. Balhoff, R. Rowe, and B. Williams, *Universal Service Funding: Realities of Serving Telecom Customers in High-Cost Regions* (Summer 2007).

[11] *See* 47 C.F.R. §§ 36.601-04 and 36.621-31. In light of this, the national average loop cost figure used as a threshold for gaining support increases dramatically from year to year pursuant to 47 C.F.R. §§ 36.622 and 36.601(c). For funding in calendar year 2008, this average loop cost, including the indexed threshold, was over $350 dollars, whereas the uncapped cost per loop is only $240.

large companies with significant urban and suburban service territories, such as those purchased by Iowa Telecom, the acquired operations would likely *never* be eligible to receive high-cost loop support because their loop costs are far below the national average. Even tens of million of investment in a study area (Iowa Telecom has three large price cap study areas) may be insufficient to bring a carrier's average costs above the adjusted national average used to determine funding eligibility. Furthermore, existing "safety valve" rules reimburse companies for new investment at a small fraction of needed investment.[12]

Although mid-size price cap companies such as Iowa Telecom have made significant investments in their infrastructure, they cannot rationally do so at the levels necessary to bring modern infrastructure and services (including broadband services) to their customers. The nature of rural properties, given their small subscriber base and low density, makes it impossible for carriers not eligible for high-cost loop support to fund all of these investment costs on a self-sufficient basis, even if they charge local exchange service rates moderately above the national average level.

## III. THE FCC SHOULD EXPEDITIOUSLY ADOPT PROPOSALS ALREADY BEFORE IT THROUGH WHICH IT CAN REMEDY SIGNIFICANT DEFICIENCIES IN FEDERAL UNIVERSAL SERVICE POLICY.

One way to address the significant deficiencies in federal universal service policy would be to adopt Embarq's BCS Solution as part of permanent USF reform.[13] The BCS Solution

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[12] Section 34.305(d) makes a carrier eligible to receive Safety Valve Support only if it is eligible for USF in the first place, regardless of the level of added investment it makes after the purchase. And even if the carrier is initially eligible, it recovers only a small percentage of its actual investment. 47 C.F.R. § 34.305(d).

[13] *See* Letter from David C. Bartlett, Embarq, to Chairman Kevin J. Martin, FCC, et al., WC Docket Nos. 05-337, et al. (Sept. 18, 2008), *attaching* A Plan To Promote Broadband Deployment And Reform High-Cost Support Without Increasing Overall USF Levels: *The*

would reprogram existing USF amounts to provide proportional loop support to price cap carriers targeted to their most costly wire centers. These high-cost wire centers currently receive very little support today – and in Iowa Telecom's case, it receives no high-cost loop support for *any* of its very rural territories – which remains a gaping hole in the Commission's implementation of Section 254. The BCS Solution uses existing data and mechanisms of the Commission, so it would be easy to implement. The BCS Solution also allows competitive carriers to gain a portion of the BCS support, if they agree to the same minimum standards that the Commission would adopt for all recipients of support under the BCS plan. This proposal is supported by other industry members, such as the Independent Telephone and Telecommunications Alliance ("ITTA").[14] The BCS Plan is in the public interest for six reasons.

First, As required by Section 254, Embarq's plan provides explicit USF to support high-cost and rural areas of price cap study areas, which does not occur under the current system. The proposed mechanism stabilizes USF funding by freezing wire center support on a year-to-year basis, irrespective of changes in the number of lines in a wire center. This will enable continued necessary support, notwithstanding a serious drop in access lines. The plan would resolve current uncertainty and bring stability that would significantly improve the investment climate.

Second, no serious barriers to the adoption of Embarq's plan exist because the plan uses the existing model and procedures. For example, the current Hybrid Cost Proxy Model

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*Broadband and Carrier-of-Last-Resort Support (BCS) Solution* (Sept. 18, 2008)("BCS Solution").

[14] *See* Comments of Independent Telephone & Telecommunications Alliance, WC Docket Nos. 05-337, et al. (Nov. 26, 2008). ITTA makes one modification to its support. Instead of funding broadband commitments pursuant to the BCS proposal, it would adopt a plan to establish a $500 million pilot program to fund broadband. Iowa Telecom supports this modification as well.

("HCPM") loop cost calculations would continue be used in order to make relative allocations among price cap high cost wire centers. Thus, no changes to the model are either necessary, which would ease implementation efforts. In addition, since the plan only uses the HCPM for loop cost modeling, a relatively stable and noncontroversial part of the HCPM, it avoids other more difficult issues concerning the model.

Third, because BCS targets support for serving wire center loop costs, USF is provided to rural and high-cost areas of the country that should receive explicit support rather than receiving implicit subsidies from the customers served in the denser portions of the same study area. Providing explicit support for rural price cap exchanges would permit carriers to change rates in more dense areas to reflect the actual costs of providing service. More sustainable competition will ensue. The elimination of implicit support is at the core of the Section 254 mandate.[15]

Fourth, support for price cap carrier networks will promote broadband deployment in rural and high-cost areas of the country. This support will be predicated on a broadband commitment to provide broadband at speeds of 1.5 Mbps within five years. The solution therefore advances other important policy initiatives than the nonrural high cost loop program.

Fifth, Embarq's BCS plan would address the issues raised by the Tenth Circuit. The new plan would jettison the existing criticized framework, and adopt a significantly different approach than the existing nonrural benchmark rule. Instead of using a particular benchmark cost or rate trigger, it distributes a finite amount of money based on the relative high costs of a wire center, regardless of the impact produced on a state-wide basis. In addition, it takes into

[15] 47 U.S.C. § 254(e).

account all of the Section 254(b) factors by balancing them and distributing support to the rural and high-cost areas of price cap companies.

Sixth, the BCS plan would be financed entirely from existing USF receipts so that no increase in the overall size of the USF would be necessary. It would eliminate the discredited identical support rule, preclude porting of access replacement funds, and make disbursements more rational.[16]

Therefore, the FCC should adopt the BCS plan, as modified by ITTA.[17] Notwithstanding, there is a critical need to fund high-cost wire centers exists now. In these difficult economic times, funding sources have dried up, but consumer demand for and interest in receiving modern advanced services has not. Therefore, if the Commission cannot adopt the Embarq BCS plan promptly, it should grant the waiver petition filed by Iowa Telecom which would allow Iowa Telecom to be treated as a non-rural carrier for purposes of high-cost loop support.[18] Iowa Telecom's waiver petition has been pending for close to three years, and the Commission's inaction has served to harm customers in rural Iowa.

## IV. CONCLUSION

Iowa Telecom urges the Commission to address the *Qwest II* remand promptly and to modify the universal service program rules to ensure that all Americans in rural, high cost, and insular areas can continue to receive affordable communications services, including broadband. Adopting comprehensive reform rules, where the FCC not only modifies the non-rural mechanism, but enables qualifying price cap carriers to receive high cost loop support pursuant

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[16] *See Identical Support Rule NPRM* at ¶ 1.

[17] *See* note 14, *infra*.

[18] Iowa Telecom Waiver Petition.

to such amendments, is an essential part of responding to the court. Therefore, the Commission should adopt the Embarq BCS Solution, as modified by ITTA, to address the critical needs of high-cost loop support for rural price cap carriers, or in the alternative, Iowa Telecom's pending waiver request.

Respectfully submitted,

By: /s/ *Gregory J. Vogt*

D. Michael Anderson
Edward B. Krachmer
Iowa Telecommunications Services, Inc.
115 S. Second Avenue West
Newton, Iowa 50208
(641) 787-2357

Of Counsel

Gregory J. Vogt
Law Offices of Gregory J. Vogt, PLLC
2121 Eisenhower Ave.
Suite 200
Alexandria, VA 22314
(703) 838-0115

Counsel for Iowa Telecommunications Services, Inc.

May 8, 2009

**Certificate of Service**

I, Gregory J. Vogt, do hereby certify that I have on this 8th day of May 2009 caused a copy of the foregoing "Comments of Iowa Telecommunications Services, Inc." to be served by electronic mail upon the following:

Antoinette Stevens
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Room CY-B402
445 12th Street, S.W.
Washington, DC 20554
antoinette.stevens@fcc.gov

Best Copy and Printing, Inc.
Portals II
Room CY-B402
445 12th Twelfth St., S.W.
Washington, D.C. 20554
fcc@bcpiweb.com

*/s/ Gregory J. Vogt*
Gregory J. Vogt