

**Before the
Federal Communications Commission
Washington, D.C. 20554**

| | |
|---|----------------------------|
| <p>In the Matter of A National Broadband Plan for Our Future</p> | <p>GN Docket No. 09-51</p> |
|---|----------------------------|

REPLY COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

July 21, 2009

TABLE OF CONTENTS

| | Page |
|---|-------------|
| I. INTRODUCTION..... | 1 |
| II. THE FOCUS OF THE PLAN SHOULD BE TO PROVIDE SERVICE IN UNSERVED AREAS | 3 |
| III. UNDER THE PLAN ALL CUSTOMERS IN UNSERVED AREAS SHOULD BE TREATED THE SAME..... | 4 |
| IV. THE PLAN SHOULD GIVE INCENTIVE TO PRIVATE PROVIDERS, NOT GOVERNMENT, TO BUILD BROADBAND INFRASTRUCTURE..... | 4 |
| V. THE PLAN SHOULD ENSURE THAT LOW-INCOME UTAHNS AND AMERICANS HAVE ACCESS TO BROADBAND AT SCHOOLS LIBRARIES, AND OTHER COMMUNITY CENTERS..... | 5 |
| VI. THE EMPHASIS ON BROADBAND SERVICE SHOULD NOT DIMINISH OR IMPEDE THE ORIGINAL PURPOSES OF THE UNIVERSAL SERVICE FUND..... | 6 |
| V. CONCLUSION AND SUMMARY..... | 7 |

APPENDIX 1

**NEWSPAPER ARTICLES FROM THE SALT LAKE TRIBUNE AND THE
DESERET MORNING NEWS**

APPENDIX 2

**URTA INITIAL AND REPLY COMMENTS IN DOCKET NO. WC 05-337
AND CC DOCKET NO. 96-45**

**Before the
Federal Communications Commission
Washington, D.C. 20554**

| | |
|--|---------------------|
| In the Matter of A National Broadband Plan for Our Future | GN Docket No. 09-51 |
|--|---------------------|

REPLY COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

I. INTRODUCTION

The Utah Rural Telecom Association (“URTA”), by and through its undersigned counsel, files these reply comments to the initial comments filed June 8, 2009 in response to the Federal Communications Commission’s (“FCC”) Notice of Inquiry (“NOI”) on the National Broadband Plan (“Plan”) required by American Recovery and Reinvestment Act of 2009.¹ URTA is an association of fourteen rural local exchange carriers who serve customers throughout rural Utah, receive high-cost universal service support for basic service, and make broadband service widely available in their respective service territories.² As recipients of high-

¹ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115, div. B, tit. VI, § 6001(k)(2) (Feb. 17, 2009) (“Recovery Act”).

² The URTA members are All West Communications, Bear Lake Communications, Beehive Telephone, Carbon Emery Telcom, Central Utah Telephone, Direct Communications, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone Company, Skyline Telecom, South Central Communications, Strata Networks, and Union Telephone Company.

cost universal service support and broadband service providers, URTA members have a significant interest in the development of a rational, vibrant Plan.

After reviewing the June 8, 2009 initial comments of other interested parties in the FCC's NOI on the Plan, URTA has five subject areas on which to reply. First, URTA agrees with many commenters that broadband service is important to the continued economic development and growth of Utah and the country. URTA encourages the FCC to focus its efforts on unserved areas to ensure that all Americans have access to broadband service rather than artificially promoting competition through the Recovery Act.

Second, URTA encourages the FCC to develop a Plan that does not discriminate against providers that have made broadband service widely available already. Approximately 95 percent of URTA members' customers have access to broadband at prices comparable to prices in urban Utah. Nevertheless, five percent of the customers in these territories do not have access and the Plan should treat them equally with those in larger areas where services are not yet available.

Third, URTA urges the FCC to develop a Plan that gives incentive to private providers, not government, to build infrastructure to make broadband service available ubiquitously. Sometimes government has attempted to provide broadband services to its citizens when private providers have not been able to make a business case to provide the service. Generally, these attempts have encountered trouble and have not achieved the government's objectives.

Fourth, in order to ensure that low-income customers have the benefit of broadband service, URTA recommends that the Plan provide for enhanced and improved service to libraries and schools. This measure will increase the availability of broadband service to people who cannot afford the cost of the required equipment at home or the ongoing service costs.

Finally, URTA believes the Plan must recognize that the original role of federal universal service support is as important today as it was when the program began. There continues to be significant value to Utah and the country to add and retain as many customers as possible on the public switched telephone network (“PSTN”). No action should be taken to enhance the availability of broadband services that diminishes or impedes the progress the current universal service support program has made to provide affordable telecommunications services throughout the country.

II. THE FOCUS OF THE PLAN SHOULD BE TO PROVIDE SERVICE IN UNSERVED AREAS

URTA acknowledges and agrees with the comments highlighting the importance of broadband service to the growth and economic development of Utah and the country. The potential of broadband in many ways is still largely untapped. Broadband can enhance and improve health services, education, business opportunities, and entertainment not just in rural areas but throughout the nation. The immensity of possibilities creates the temptation to try to do too much with limited resources resulting in little or no progress or complete failure.

URTA believes the focus of the Plan must be on unserved areas to ensure first that all Americans have access to broadband services. Only after broadband is ubiquitously available should any consideration be given to so-called underserved areas and in no instance should the Plan promote artificial competition. Real competition where there is opportunity for multiple providers to compete benefits customers. Government-sponsored artificial competition for the sake of having more than one provider in areas that cannot sustain it will fail and waste scarce resources.

III. UNDER THE PLAN ALL CUSTOMERS IN UNSERVED AREAS SHOULD BE TREATED THE SAME

Many commenters recommend that broadband be available to every customer in every service territory throughout the country. URTA members have progressively worked to make broadband service available to approximately 95 percent of their customers. Generally the speeds URTA members offer customers are significantly faster than the 768 kbps downstream and 200 kbps upstream defined in the Notice of Funds Availability (“NOFA”) issued July 1, 2009. As widely as these services are available in URTA members’ territories, five percent of their customers still do not have them. Neither URTA members nor their customers should be penalized or denied access to needed funds because they moved rapidly to make broadband available in their service territories. If anything, providers who have worked to address their customers’ and market demands should be given priority since they have shown willingness and readiness to provide broadband service before passage of the Recovery Act and issuance of the NOFA. The unserved areas in which five percent of URTA members’ customers live are just as important as all other unserved areas in the rest of the country and URTA members should not be penalized for having had the vision to deploy broadband before passage of the Recovery Act.

IV. THE PLAN SHOULD GIVE INCENTIVE TO PRIVATE PROVIDERS, NOT GOVERNMENT, TO BUILD BROADBAND INFRASTRUCTURE

The National Association of State Utility Consumer Advocates (“NASUCA”) recommended that the Plan encourage municipal broadband projects to attract risk capital.³ NASUCA cited Utah’s experience with the Utah Telecommunications Open Infrastructure

³ Initial Comments of the National Association of State Utility Consumer Advocates in Response to the Notice of Inquiry, p. 38.

Agency (“UTOPIA”), a municipally-provided open broadband network, as an example to follow and support in the Plan.⁴

URTA strongly disagrees with this proposal. Contrary to NASUCA’s claims regarding UTOPIA, UTOPIA is proving to be a very expensive venture for the taxpayers in the Utah cities that were persuaded to join. UTOPIA has failed to produce the results it promised when it was formed in 2004 and may have to call on cities to pay on sales-tax pledges they made but believed they would never have to pay.⁵

URTA recommends that the Plan rely on private providers to build the broadband infrastructure. Private providers are in the business of providing broadband and other telecommunications services. Municipalities are not. Where there is no business case to build infrastructure, the Plan should provide incentives to private providers, particularly to those like URTA members with proven track records, to take infrastructure to those areas. That is the only reliable option to ensure that the last five percent in URTA’s service territories and other remote unserved areas in the nation receive broadband service at reasonable prices.

V. THE PLAN SHOULD ENSURE THAT LOW-INCOME UTAHNS AND AMERICANS HAVE ACCESS TO BROADBAND AT SCHOOLS LIBRARIES, AND OTHER COMMUNITY CENTERS

Several commenters recommended various ways to provide low-income customers with access to broadband service. URTA urges the FCC to develop provisions in the Plan to ensure improved and enhanced broadband service to schools, libraries, and other community centers throughout the nation.

⁴ *Id.* at 39.

⁵ See the editorial and article in both the Salt Lake Tribune and the Deseret News written in June 2009 describing UTOPIA’s troubles and attached as Appendix 1 to these comments.

When broadband service is universally available, the price of equipment necessary to use it and the on-going costs of the service, even at reduced levels, will still be out of reach of some customers. It is imperative, therefore, that the Plan make available broadband service free to these customers at schools, libraries, and other central community centers. This solution allows low-income customers to benefit from the advantages broad service can offer. In addition, if these community centers act as anchor tenants on privately provided broadband infrastructure, other facilities and infrastructure will be available for use by other customers in the community.

VI. THE EMPHASIS ON BROADBAND SERVICE SHOULD NOT DIMINISH OR IMPEDE THE ORIGINAL PURPOSES OF THE UNIVERSAL SERVICE FUND

Some commenters urged the FCC to reform the federal universal service fund as part of the Plan. URITA filed comments in WC Docket No. 05-337, In the Matter of High-Cost Universal Service Support; CC Docket No. 96-45, Federal State Joint Board on Universal Service conditionally approving separating the fund into the Broadband Fund, the Mobility Fund, and the Provider of Last Resort.⁶ URITA's support for the proposed reform was that the FCC take no action that would diminish or impede universal service support for the provider of last resort. The original purposes of the federal fund are as valid today as they were when the fund was established. Basic telecommunications service at affordable rates must continue as a universal service principle and objective. Making broadband service ubiquitously available should not be done at the expense of basic telecommunications service. In the judgment of URITA members, that would be the equivalent of taking one step forward and two steps back.

⁶ URITA's comments in those Dockets are attached to these reply comments as Appendix 2.

Any universal service reform done in conjunction with the Plan or otherwise must be compatible with and complementary to the progress we have already made.

VII. CONCLUSION AND SUMMARY

The Plan the FCC is developing must be skillfully crafted to ensure that scarce, valuable resources are not wasted. The Plan must focus on unserved areas to give all customers the significant benefit of access to broadband service. To the degree that competitive choice becomes part of the Plan, it should be allowed to develop naturally and not promoted or propped up by government intervention. All unserved areas throughout the country should be treated equally. Providers who have worked to expand access to broadband in their service territories should not be penalized to the detriment of their customers. The Plan should incent private providers, particularly those with proven track records of providing broadband service, to expand their infrastructure to unserved areas. It should not promote municipally-provided service. Under the Plan, service at schools, libraries, and other community centers should be expanded and reinforced so that low-income customers have greater access to broadband service. This has the incidental but important effect of making available additional capacity to serve other customers in the community. Lastly, the Plan should not neglect or impair the original purpose of the federal universal fund: to make basic telecommunications service universally available. Broadband support should be separate and apart from support for basic telecommunications service. Nothing in the Plan should diminish the progress the fund has enabled already.

Respectfully submitted this 21st day of July, 2009.

Callister Nebeker & McCullough

/s/Stephen F. Mecham
Stephen F. Mecham
10 E. South Temple, Suite 900
Salt Lake City, Utah 84133
Tel. 801 530-7300
Email: sfmecham@cnmlaw.com

Attorneys for URTA

APPENDIX 1

The Salt Lake Tribune

<http://www.sltrib.com>

Utopia to tell its member cities: Get ready to pay

7 years ago » Those making pledges in 2002 did not expect they'd have to kick in.

By Steven Oberbeck
The Salt Lake Tribune

Salt Lake Tribune

Updated: 06/18/2009 05:49:31 PM MDT

The Salt Lake Tribune

<http://www.sltrib.com>

Despite promises by its early promoters that it would never happen, the Utopia fiber-optic communications system is preparing to call upon its 11 member cities to pony up millions in taxpayer funds to help pay the network's debts.

Todd Marriott, Utopia's chief executive, said the network likely will need its member cities to begin contributing so the system can make its bond payments by late this year or early next.

"All the cities know it is coming," Marriott said. "We hired the best financial minds that money could buy, but unfortunately, things didn't turn out the way the experts thought they would."

The Utah Telecommunication Open Infrastructure Agency, or Utopia, was set up in 2002 to run a wholesale network that would lease capacity to any service provider who wanted to use the system's fiber-optic lines to serve customers.

In all, 11 communities -- Brigham City, Centerville, Layton, Lindon, Midvale, Murray, Orem, Payson, Perry, Tremonton and West Valley -- bought into the Utopia sales pitch that the system would bring in millions in new business development and generate a healthy profit.

To help it succeed, cities pledged a combined \$202 million in sales tax revenue over 20 years so the bonds needed to be sold to finance construction would carry lower interest instead of a junk-bond rating reflecting the riskiness of the project.

But by mid-2008, low customer counts and financial missteps had drained Utopia's bank accounts to the point it was teetering on insolvency. The network's new operators convinced 10 of the 11 cities to approve a major refinancing. Only Payson declined to participate.

Under that restructuring, the 10 communities agreed to increase their pledges of sales tax revenue to \$500 million over 32 years, or essentially doubling down on their earlier wager that Utopia would succeed without the cities ever having to make good on their pledges.

It isn't going to happen.

Marriott said it will be necessary to begin calling on the cities for their pledge money because the credit and bond markets moved against Utopia and drained away the funds it had set aside from the refinancing to make the payments on its bonds through June 2010.

"We were being forced to pay as much as \$300,000 more a month than we had planned," he said.

But Marriott, who took over Utopia last year shortly after the refinancing was approved, said the network will continue to push forward with its development plans and soon will reach the point where the system is breaking even "possibly as early as next year."

But long-time Utopia critic Royce Van Tassell of the Utah Taxpayers Association said it was inevitable that the cities would be called upon to make good on their pledges, despite promises to the contrary.

"The credit markets right off the bat recognized how risky this project was" by demanding Utopia's bonds carry a junk-bond interest rate, he said.

And he predicts the participating municipalities will have to raise property taxes to replace city sales tax revenue that soon will begin flowing to Utopia to pay for the network's debt.

"They just can't turn on a spigot somewhere and start replacing those sales-tax revenues," he said. "And if I was a taxpayer I'd be outraged they are sending money to Utopia that could be used for police, fire and other city services."

Murray Mayor Dan Snarr, an avid Utopia supporter, argues that no matter what the cities have to pay, it will be worth

it in the long run. "I firmly believe that this is a valuable service that will allow us as a city to operate more efficiently. We'll definitely be able to save more money with it than without it."

What Utopia member cities may have to pay during the first year to help the network meet its bond payments

Brigham City -- \$397,290

Centerville -- \$395,126

Layton -- \$1,983,125

Lindon -- \$365,036

Midvale -- \$719,398

Murray -- \$1,460,515

Orem -- \$2,589,469

Payson -- \$259,920*

Perry -- \$95,549

Tremonton -- \$299,750

West Valley City -- \$3,319,461

* Payson is required to pay only the amount it pledged in 2004, having opted out of the recent refinancing

Source: Utah Taxpayers Association

Close Window

Send To Printer

The Salt Lake Tribune

<http://www.sltrib.com>

Paradise lost

UTOPIA will call on tax pledges

Tribune Editorial

Salt Lake Tribune

Updated: 06/23/2009 05:15:35 PM MDT

The Salt Lake Tribune

<http://www.sltrib.com>

The day of reckoning for UTOPIA is nearing. The star-crossed venture to provide fiber-optic communications to homes and businesses is drowning in red ink, and the 11 cities that underwrote its bonds with sales tax guarantees soon will be asked to throw it a life ring worth millions of dollars a year.

These cities can ill afford that expense as sales tax revenues are ebbing due to the recession. But they have only themselves to blame. They ignored the warnings of critics who cautioned against entering the volatile telecommunications business with guarantees of public funds and competing with the likes of Qwest and Comcast, whose investors already had paid to build their own infrastructure. We argued when the cities took the plunge in 2004 that if there were such pent-up demand for high-speed fiber-optic service, private providers would fill it.

As it turned out, demand has proved much weaker than the promoters of the Utah Telecommunication Open Infrastructure Agency predicted. Construction costs are higher. The recession is the *coup de grace*.

As a result, UTOPIA has notified the 11 cities that it will call on their guarantees to make bond payments. West Valley City may have to come up with \$3.3 million. Orem may have to find \$2.6 million. Layton, \$2 million. Murray, \$1.5 million. Midvale, \$719,000. Brigham City, Tremonton, Centerville, Lindon, Payson and Perry will have to dig up lesser amounts. If UTOPIA calls on those funds, the cities will face the prospect of cutting services or raising taxes.

Last year, the cities faced the choice of cutting their losses and facing the music, or extending the amount and term of their commitment. Essentially, all but Payson doubled down. They amplified their collective commitment from \$202 million over 20 years to \$500 million over 32 years.

Given the current recession, it would have made more sense to wind down the venture and sell its assets. The cities would have taken a loss, and may have had to put up funds sooner, but they would have limited their exposure going forward. They chose instead to keep playing.

It is possible that this gamble could pay off eventually, if the economy recovers and people suddenly demand the services that UTOPIA's fiber-optic network makes possible. But there is nothing in the venture's history so far to suggest that those things will happen. In the meantime, the cities' taxpayers are left holding the bag for a service that private companies can and are providing at cheaper rates. The competing Internet connections may not be as fast, but they aren't making claims on the public purse, either.

[Close Window](#) [Send To Printer](#)

Deseret News

UTOPIA cities may have to pay this year

By **Rebecca Palmer**

Deseret News

Published: Wednesday, June 17, 2009 10:55 p.m. MDT

WEST VALLEY CITY — The UTOPIA fiber-optic network has suffered another major financial setback and could call on 10 of its 11 municipal partners to pay on sales-tax pledges within a year.

The Utah Telecommunications Open Infrastructure Agency refinanced all of its debt in 2008 to gain about \$10 million, which was expected to pay for build-out of the system in targeted areas.

Almost exactly one year later, four of those target areas are being serviced — successfully — according to UTOPIA chief executive Todd Marriott, who was hired at the same time the refinance was going on. But complications in the national credit-swap market mean that member cities will likely have to pay before June 2010.

It happened because UTOPIA was forced to refinance using a 30-year, variable-rate bond, which it then tried to stabilize by contracting with a bank for credit swaps, with the net result being "a wash" for the fiber-optic company's finances, according to UTOPIA finance director Kirt Sudweeks. When Lehman Brothers declared bankruptcy and the credit markets went haywire last autumn, that deal fell apart, leaving UTOPIA with monthly interest payments between \$50,000 and \$300,000 higher than planned.

The cities were required to put away money just in case the refinance did not work out, but many local elected officials hoped the network would reach profitability quickly enough that their sales-tax pledges would never be called upon.

Marriott broke the news to the West Valley City Council during a tour of his offices Tuesday afternoon. The admission drew the ire of city CouncilwomanCarolynn Burt, who complained that although West Valley City owes the biggest pledge, only about one-third of city residents and businesses can access UTOPIA fiber.

"That is a problem for me," Burt said.

Marriott explained that UTOPIA has been forced to operate in a very targeted way. Money can only be spent to complete fiber-optic rings in areas with both sufficient customer support and sufficient underlying infrastructure, he said.

The entire UTOPIA network, including the western two-thirds of West Valley City, could be finished in one to seven years, Marriott said.

The CEO also recommended that the West Valley City Council ignore "armchair critic" comments by the likes of the Utah Taxpayers Association, which recently published a newsletter article saying UTOPIA promised its cities the tax pledges would never be called upon.

Murray Mayor Dan Snarr explained his take on the situation in a monthly message to residents.

"At this point in time, no tax dollars have been used on this project," Snarr wrote. "That may change and we may need to help pay for some of the operations until there are enough customers to cover expenses. I firmly believe that this is a valuable service and that it allows us as a city to expand our opportunities, to work more efficiently and to save money."

Unfortunately for UTOPIA, credit-swap markets are still less stable than they were projected to be a year ago, and the fiber-optic company continues to spend more money on the variable-rate bonds than

expected, Sudweeks said. The pool of money set aside to pay interest payments through next June is continually shrinking and could continue to do so, he said.

But it's not all bad news for Utah's sole fiber-optic municipal infrastructure project. UTOPIA persuaded around 30 percent of newly eligible customers to join within weeks of entering new markets. UTOPIA also has several new service providers that compete with one another to provide service directly to homes and businesses.

Continued progress could eventually result in positive cash flow so the only people paying for the network are those using it, said UTOPIA sales director Hugh Matheson.

"You've given us a humongous task to overcome," Marriott said. "We can do it."

Maximum amount cities could be forced to pay:

Brigham City\$389,500

Centerville\$387,378

Layton\$1,944,240

Lindon\$357,878

Midvale\$705,293

Murray\$1,431,877

Orem\$2,538,695

Payson\$259,920*

Perry\$95,549

Tremonton\$293,872

West Valley\$3,254,373

* Payson is only required to pay the amount it pledged in 2004 because the municipality opted out of the 2008 refinance.

E-MAIL: rpalmer@desnews.com

© 2009 Deseret News Publishing Company | All rights reserved

Deseret News

UTOPIA critics were right

Deseret News editorial

Published: Monday, June 22, 2009 12:01 a.m. MDT

UTOPIA's chief executive officer, Todd Marriott, is asking the West Valley City Council to ignore whatever the Utah Taxpayers Association might say about the shaky telecommunications system. An "armchair critic" is how he dismissed the group.

But rather than trying to belittle the critics, we wish someone at UTOPIA would come up with answers to the questions those and others have raised. These questions are especially important now that UTOPIA, which stands for the Utah Telecommunications Open Infrastructure Agency, appears on the verge of asking 10 of its 11 municipal partners to begin funneling sales tax dollars its way to make bond payments.

That day was never supposed to come, although the armchair critics, including this page, warned the 10 municipalities not to pledge their sales tax receipts to back 33-year bonds totaling a combined half a billion dollars. Even under the best of circumstances, those cities have tied up tax receipts that otherwise could be used for legitimate municipal purposes. Under the worst of circumstances, they will pay millions to subsidize local Internet services through an expensive fiber-optic network.

The questions we wish UTOPIA would answer are these:

Why do local governments have a legitimate interest in funding high-speed Internet, considering several private companies already do so?

Does UTOPIA really compete fairly with the private sector? If private companies overextend and are unable to pay off debts, they go bankrupt. UTOPIA can fall back on the sales tax pledges of its member cities. How is that fair?

How will UTOPIA make itself profitable enough to be self-sustaining, especially during a difficult recession?

Some defenders of the network say it has succeeded in making the local Internet market more competitive. This may be true, but at what cost? And if local taxpayers begin paying directly to keep the network alive, is that true competition?

Provo had its own disastrous experience with a publicly backed Internet network. Luckily, the city was able to sell that network to Broadweave, a private company.

But the Provo experience offers a significant reason for hope. Broadweave showed that there is a market for providing Internet service to areas with a relatively small population. Many of the cities belonging to UTOPIA believe they are too small to attract much interest from private providers.

Unfortunately, however, the UTOPIA cities don't have that much control over the network. They are committed to provide tax dollars if needed, and it looks increasingly as if money will be needed, and that all those armchair critics were right.

© 2009 Deseret News Publishing Company | All rights reserved

APPENDIX 2

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

April 17, 2008

TABLE OF CONTENTS

| | Page |
|---|-------------|
| I. INTRODUCTION..... | 1 |
| II. JOINT BOARD’S PROPOSED REFORM OF HIGH-COST SUPPORT..... | 3 |
| A. URTA Conditionally Supports Dividing Fund..... | 3 |
| B. NPRM Proposal Does Not Satisfy URTA Conditions or Law..... | 4 |
| C. States Should Administer Funds and Analysis Should be Required..... | 6 |
| III. THE COMMISSION’S RULES GOVERNING HIGH-COST UNIVERSAL SUPPORT TO ETCs (<i>THE IDENTICAL SUPPORT NPRM</i>)..... | 7 |
| A. Identical Support Rule Should be Eliminated..... | 7 |
| B. CETC Support Should be Based on CETC Costs..... | 8 |
| IV. WHETHER AND HOW TO IMPLEMENT REVERSE AUCTIONS TO DISTRIBUTE HIGH-COST SUPPORT..... | 8 |
| A. URTA Strongly Opposes Reverse Auctions..... | 8 |
| B. Reverse Auctions Will Stifle Capital, Reverse Incentives, Harm Service..... | 9 |
| C. Asset Transfer Is Not the Answer..... | 10 |
| D. If Used, Reverse Auctions Should Start As Experiment in Wireless Industry..... | 10 |
| E. Single Winner and Multiple Winner Auctions Are Both Harmful to Service..... | 11 |
| V. CONCLUSION AND SUMMARY..... | 12 |

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

I. INTRODUCTION

The Utah Rural Telecom Association (“URTA”), by and through its undersigned counsel, files these comments in response to the Commission’s three Notices of Proposed Rulemaking (“NPRMs”) released January 29, 2008.¹

URTA is an association of fourteen rural local exchange carriers who serve customers throughout rural Utah and receive high-cost universal service support.² In addition to traditional

¹ *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, FCC 08-22 (rel. Jan. 29, 2008); *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-4 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) (*Recommended Decision*) (attached as Appendix A to FCC 08-22); *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, FCC 08-4 (rel. Jan. 29, 2008) (*Identical Support Rule 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, FCC 08-5 (rel. Jan. 29, 2008) (*Reverse Auctions NPRM*).

local exchange service, all URTA members provide broadband service to their customers and several members operate separate wireless affiliates. Collectively and individually, URTA members have in-depth experience with the current high-cost support system and have a significant interest in each of the three NPRMs.

The role of federal universal service support is as important today as it was when the program began. There continues to be significant value to Utah and the country to add and retain as many customers as possible on the public switched telephone network (“PSTN”). No action should be taken that could diminish or impede the progress the current universal service support program has made to provide affordable telecommunications services throughout the country. In this light, URTA generally supports efforts designed to ensure sustainable, predictable, cost-based universal service support that fulfills the congressionally-mandated purpose to provide access to affordable, high-quality telecommunications services rural America.³

URTA also supports the Federal-State Joint Board on Universal Service’s (“Joint Board”) recommendation not to use universal service to subsidize competition or to build duplicate networks.⁴ The subsidization of competition should not be a purpose of universal service as

² The URTA members are All West Communications, Bear Lake Communications, Beehive Telephone, Carbon Emery Telcom, Central Utah Telephone, Direct Communications, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone Company, Skyline Telecom, South Central Communications, UBTA-UBET Communications, and Union Telephone Company.

³ While URTA supports some of the proposed reforms to universal service support recommended in the NPRMs, URTA urges the Commission to first reform its contribution policy to broaden the base of contributors and to ensure equal and fair treatment of all service providers and customers using the services.

⁴ *Recommended Decision* FCC 07J-4 at ¶ 3. The identical support rule is an example of universal service support being used to subsidize competition and that is one of the reasons URTA agrees with the FCC’s tentative recommendation to eliminate this rule.

efforts to create competition with subsidies will ultimately fail. If the Commission determines that a change in policy with respect to incumbent local exchange support is in the public interest, URTA urges the Commission to implement any new policy gradually in order to maintain the availability and affordability of capital for investment in rural areas.

URTA's comments will address: first, the Joint Board's proposed reform of high-cost universal service support; second, the Commission's rules governing the amount of high-cost universal service support to be provided to eligible telecommunications carriers ("ETCs"); and third, whether and how to implement reverse auctions in disbursing high-cost support to ETCs.

II. JOINT BOARD'S PROPOSED REFORM OF HIGH-COST SUPPORT

A. URTA Conditionally Supports Dividing Fund

URTA conditionally supports the Joint Board's recommendations to include broadband as a supported service⁵ and to separate the high-cost universal service support fund into the Broadband Fund, the Mobility Fund, and the Provider of Last Resort ("POLR") Fund. The conditions on which URTA supports these recommendations are that first, the POLR Fund be held harmless and second, that operation of the POLR Fund be predictable, sufficient, and sustainable using embedded costs to determine the level of support.⁶

⁵ *Id.* at ¶ 56.

⁶ *See Id.* at ¶ 39 where the Joint Board recommends using embedded costs to determine support.

B. NPRM Proposal Does Not Satisfy URTA Conditions or Law

The Joint Board's recommended \$4.5 billion cap on the total fund and its proposed allocation of \$300 million to the Mobility Fund and \$1 billion to the Broadband Fund do not satisfy URTA's conditions for approving the inclusion of broadband as a supported service and dividing the fund.⁷ Nor do the recommendations meet the statutory requirements of 47 U.S.C. § 254(b)(5) that the fund be specific, predictable and sufficient to preserve and advance universal service. There are no findings or analyses in the Joint Board's *Recommended Decision* showing that \$4.5 billion is sufficient to fulfill the purposes of the fund. The Joint Board left \$3.2 in the POLR Fund without explaining how that is the appropriate sum to address the needs of universal service. It appears the Joint Board arbitrarily chose \$4.5 billion to avoid increasing the burden on consumers who pay universal service contributions.⁸ If the Commission is going to cap the fund, there must be some analysis and rationale for the Commission's decision that satisfies the congressionally-mandated sufficiency principle.⁹ In addition, the cap only applies to the total fund, so there is nothing to prevent one of the other two funds from raiding the POLR Fund to the detriment of the customers requiring universal service support from the POLR Fund.

⁷ *Id.* at ¶¶ 26, 28, 29.

⁸ *Id.* at ¶ 2. There is no finding or analysis determining at what level the universal service contribution becomes a burden or of the savings other reforms have saved these consumers. If the Commission first reformed universal service contribution policy and expanded the contributor base, both the concern over customer burden and the perceived need to cap the fund would likely disappear. The impact of contributions on individual customers would decrease, the fund would increase, and the statutory requirements of universal service could be addressed sufficiently.

⁹ Capping the overall fund would have the unintended consequence of states rushing to certify CETCs to increase the states' universal service support distributions. If the Commission is going to cap the fund, it must correct this incentive.

If the Commission were to correctly address these issues, dividing the fund in three separate funds with separate budgets and purposes could protect the POLR Fund, enhance accountability, and guard against waste. Having the three separate funds should make it clear where and how the funds are being used and ensure that the support for the separate services does not adversely affect one another. This, combined with eliminating the identical support rule as URTA recommends below, should also allow the Commission to more easily control the size and growth of the funds.

The Joint Board acknowledged the commendable work the rural local exchange carriers have done in providing voice and broadband services to their customers using the existing support mechanisms which have been flat or declining since 2003.¹⁰ Other than dividing the fund in three and imposing the required safeguards, there is no purpose in altering the current POLR mechanisms when they are working. URTA therefore disagrees with the Joint Board that the Commission should consider changing the POLR mechanism in the future.¹¹ If the Commission were to contemplate any change to the current mechanisms which constitute the POLR program, URTA recommends that the POLR Fund be increased to enable rural local exchange carriers to expand the work they are doing for the further benefit of rural customers by removing the cap on the high-cost loop support mechanism.

¹⁰ *Id.* at ¶ 39. This is further evidence that universal service support used for traditional universal service purposes has not been the cause of the fund spiraling out of control.

¹¹ *Id.* The Joint Board took the position that funding for RLECs may be subject to a competitive bid approach in the future. URTA disagrees with this position.

C. States Should Administer Funds and Analysis Should be Required

Should the Commission accept the Joint Board's recommendation to divide the current high-cost fund into three separate funds, URTA concurs with the Joint Board that states should administer the Broadband Fund. The Utah legislature started a modest rural broadband grant program this year to extend broadband service to unserved areas that could be blended with a similar federal program. States typically are in a better position to know the areas that are not yet served and understand how those areas can best be served. That is true for the Mobility Fund as well. As stated above, however, funding for the POLR Fund should not be diminished by funding the Broadband Fund or the Mobility Fund. The Commission should take particular care not to adversely affect the POLR Fund in moving money from the so-called POLR legacy programs to the Broadband Fund as the Joint Board has suggested.¹²

URTA recommends that any Broadband Fund or Mobility Fund program require an analysis of unserved areas by each participating state before funds are distributed. The information on the availability of these services in Utah has been inaccurate historically and should be corrected to ensure that funds are used only where they are needed. In the areas served by URTA members for example, broadband is nearly ubiquitously available, but that fact is often not recognized or not known by policymakers. URTA, therefore, supports the Joint Board's recommendation that states develop and publish detailed maps of unserved areas before construction grants are awarded.¹³

¹² *Id.* at ¶ 29.

¹³ *Id.* at ¶ 12

III. THE COMMISSION’S RULES GOVERNING HIGH-COST UNIVERSAL SUPPORT TO ETCs (*THE IDENTICAL SUPPORT NPRM*)

A. Identical Support Rule Should be Eliminated

The URTA concurs with the Commission’s tentative conclusion that the “identical support” rule should be eliminated.¹⁴ Over time, this rule has proven to be the single biggest contributing factor to the rapid escalation of the universal support fund and allowing it to continue would be a mistake.

Customers have not treated wireless service as a substitute for wireline service and as a result, the number of lines supported by the universal service fund has multiplied beyond expectations as states have granted wireless providers ETC status.¹⁵ In addition, distributions pursuant to the rule have had nothing to do with the actual cost of providing service in rural areas. The identical support rule was initiated in an attempt to treat all providers fairly and to promote competition, but it has had serious, unintended consequences on the universal service fund.

If the identical support rule is left in place and demands on the universal service fund continue to increase exponentially as they have, public and political support for universal service will wane or worse, disappear. In that event, customers in rural America who need universal service to maintain their telecommunications service will be irreparably harmed.

¹⁴ *Identical Support Rule NPRM* FCC 08-4 at ¶ 1.

¹⁵ *Id.* at ¶¶ 9, 10.

B. CETC Support Should be Based on CETC Costs

URTA also supports the Commission's other tentative conclusions to provide support to competitive ETCs based on the CETCs' own costs instead of the incumbents', and to require CETCs to file cost data demonstrating their per-line costs to provide service in order to receive universal service support.¹⁶ Taking such action should reduce demands on the universal service fund and begin to ensure that support is only distributed where it is needed. URTA suggests that CETCs report their costs based on and in alignment with the study areas of the incumbents where they offer service. The Commission should also require that CETCs file total costs for all study areas where they serve in order to compare those costs to the costs from the study areas where the CETCs are seeking universal service support. That is one potential option to crosscheck the CETCs' costs in order to prevent costs from being shifted to the higher cost areas.

IV. WHETHER AND HOW TO IMPLEMENT REVERSE AUCTIONS TO DISTRIBUTE HIGH-COST SUPPORT

A. URTA Strongly Opposes Reverse Auctions

URTA strongly disagrees with the Commission's tentative conclusion that reverse auctions offer advantages in distributing high-cost support and that it should develop an auction mechanism to determine high-cost universal service support.¹⁷ URTA opposes the development and implementation of any reverse auction mechanism because of the negative effect it will have on investment in infrastructure in rural areas and urges the Commission to reconsider and reverse its tentative position. It is URTA's position that under a reverse auction regime, service in rural

¹⁶ *Id.* at ¶¶ 12, 13. Including a possible cap on CETC per line support at the ILEC level.

¹⁷ *Reverse Auctions NPRM* FCC 08-5 at ¶ 1.

areas will deteriorate and it will not be possible to ensure the universal availability of services. URTA believes that reverse auctions will be to quality and availability of service in rural America what the identical support rule has been to the universal service fund support mechanism in terms of the unintended adverse exponential, unsustainable growth the rule created. If implemented, the use of reverse auctions to distribute support funds is a policy the Commission will likely have to change within a few years following implementation to address the harm it will have caused to service in rural areas.

B. Reverse Auctions Will Stifle Capital, Reverse Incentives, Harm Service

Economic lives of most facilities and cost recovery periods for investment in infrastructure will be longer than the length of an auction term.¹⁸ If universal service fund revenues are only available during the term of an auction, those revenues will be at risk each time there is an auction. Should a rural local exchange service provider lose an auction and the accompanying universal service revenues before it has had an opportunity to recover its investment costs, the provider may have to default on its loans and possibly seek bankruptcy protection. Lenders will not lend money under this cloud of risk and the provider will have no incentive to invest. As the lowest bidder with the least support from the support fund, the winning bidder will avoid upgrading its equipment where possible and will be slow to extend service to unserved areas. URTA avers reverse auctions simply reverse investment incentives and will worsen the quality and availability of service in rural America.

¹⁸ In *Reverse Auctions NPRM* FCC 08-5 ¶ 47 the Commission seeks comment on the frequency of auctions and queries whether five years is the appropriate length of time between auctions. Five years is far less than the economic life of most telecommunications equipment and would not allow providers to recover the costs of their investment before universal service funds are at risk.

C. Asset Transfer Is Not the Answer

Partly in response to some of these concerns, the Commission suggested considering the possibility of transferring assets from a previously supported provider to the new winning bidder.¹⁹ URTA opposes even the consideration of such a proposal, particularly in the context of wireline service. It is fraught with legal questions and customer service issues. First and foremost, the Commission's authority to require such a transfer is questionable. In addition, the previously supported provider may have numerous contracts including loans that are not assignable. The confusion for customers alone of having perpetually revolving providers makes this proposal not worth considering. A reverse auction regime that requires the transfer of assets would be heavy-handed regulation contrary to all the trends in the telecommunications industry.

D. If Used, Reverse Auctions Should Start As Experiment in Wireless Industry

If the Commission decides to experiment with reverse auctions despite their adverse impacts on POLR Fund recipients, URTA recommends that they be tried first among multiple wireless ETC providers, within the framework of the Wireless Fund.²⁰ This approach has the advantage of allowing the Commission to determine if reverse auctions are practical and whether they should be used any further.

URTA recommends the Commission not mix wireless and wireline providers together in the same auction. URTA would characterize this as the lesser-of-the-evils option. The

¹⁹ *Id.* at ¶ 49.

²⁰ *Id.* at ¶ 6. Although this is the first part of the Verizon Proposal, URTA does not recommend that the Commission adopt the rest of the proposal.

Commission's *Identical Support Rule NPRM* recognized that wireless and wireline services are not substitutes for one another.²¹ They fill different needs in the market and are primarily complementary services. With few exceptions, wireless service has not become the sole provider in households. It makes no sense to have providers that provide different, non-substitutable services competing in the same auction for the same funds to provide service in the same area when the service they provide is different.

E. Single Winner and Multiple Winner Auctions Are Both Harmful to Service

URTA's position opposing reverse auctions necessarily means that it opposes single winner and multiple winner reverse auctions. Even though the Commission has tentatively concluded that universal support auctions should award support to a single winner,²² and a single winner auction may be preferable, single and multiple winner auctions will both harm quality and availability of service in rural areas. With either option, bidders have incentive to underbid to win or retain universal support funds. Both options therefore create reverse incentives to invest because the funds from the winning lowest bid will likely not be sufficient support. The auction winners will have to postpone or eliminate projects to make up for having insufficient funds. In addition, both options create unacceptable risk for lenders which will cause a scarcity of available capital in the market. Rural service will suffer under either scenario.

²¹ *Identical Support Rule NPRM* FCC 08-4 at ¶ 9.

²² *Reverse Auctions NPRM* FCC 08-05 at ¶ 14.

V. CONCLUSION AND SUMMARY

URTA supports universal service support reform that is sufficient, predictable, sustainable, and acceptable to lenders to maintain access to capital for investment in rural areas. Dividing the fund into the Broadband Fund, the Mobility Fund, and the POLR Fund with separate budgets and purposes could achieve these objectives if the POLR Fund is held harmless and any cap the Commission proposes is sufficient support to address traditional universal service needs.

Reverse auctions will not accomplish these reform objectives. Instead, they will harm quality and availability of service in rural areas and the Commission should reverse its tentative conclusion to not implement them.

URTA agrees with the Commission's conclusion to eliminate the identical support rule. This rule has been a mistake and should be abandoned as soon as possible.

Respectfully submitted this 17th day of April, 2008.

Callister Nebeker & McCullough

/s/Stephen F. Mecham
Stephen F. Mecham
10 E. South Temple, Suite 900
Salt Lake City, Utah 84133
Tel. 801 530-7300
Email: sfmecham@cnmlaw.com

Attorneys for URTA

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

REPLY COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

June 2, 2008

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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

REPLY COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

I. INTRODUCTION

The Utah Rural Telecom Association (“URTA”), by and through its undersigned counsel, files these reply comments in response to initial comments submitted by other parties on the Commission’s three Notices of Proposed Rulemaking (“NPRMs”) released January 29, 2008.¹ URTA also filed initial comments in these dockets April 17, 2008 in which it identified itself as an association of fourteen rural local exchange

¹ *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, FCC 08-22 (rel. Jan. 29, 2008); *Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Recommended Decision, FCC 07J-4 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) (*Recommended Decision*) (attached as Appendix A to FCC 08-22); *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, FCC 08-4 (rel. Jan. 29, 2008) (*Identical Support Rule 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, FCC 08-5 (rel. Jan. 29, 2008) (*Reverse Auctions NPRM*).

carriers who serve customers throughout rural Utah and receive high-cost universal service support.²

In its initial comments URTA identified the following reform objective: “URTA supports universal service support reform that is sufficient, predictable, sustainable, and acceptable to lenders to maintain access to capital for investment in rural areas.”³

URTA summarized its position on the three NPRMs as follows:

Dividing the fund into the Broadband Fund, the Mobility Fund, and the POLR Fund with separate budgets and purposes could achieve these objectives if the POLR Fund is held harmless and any cap the Commission proposes is sufficient support to address traditional universal service needs.

Reverse auctions will not accomplish these reform objectives. Instead, they will harm quality and availability of service in rural areas and the Commission should reverse its tentative conclusion to implement them.

URTA agrees with the Commission’s conclusion to eliminate the identical support rule. This rule has been a mistake and should be abandoned as soon as possible.⁴

II. NONE OF THE COMMENTS BY OTHER COMMENTERS HAVE ALTERED URTA’S POSITIONS

A. URTA Strongly Opposes the Use of Reverse Auctions

URTA continues to strongly oppose the development and implementation of any reverse auction mechanism because of the negative effect it will have on

² The URTA members are All West Communications, Bear Lake Communications, Beehive Telephone, Carbon Emery Telcom, Central Utah Telephone, Direct Communications, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone Company, Skyline Telecom, South Central Communications, UBTA-UBET Communications, and Union Telephone Company.

³ URTA, at p. 12.

⁴ *Id.*

investment in telecommunications and broadband infrastructure in rural areas. Many diverse commenters in these dockets concur with URITA that reverse auctions will stifle the availability of capital, reverse investment incentives, and harm telecommunications service to rural customers.⁵ It is widely recognized that reverse auctions are inconsistent with the original principle of universal service to ensure access to high quality service at reasonable rates in rural areas. They will also negatively affect the Commission's objective to make broadband ubiquitously available, even if the fund is divided into three separate funds, because of their dampening effect on investment generally in high cost territories. URITA therefore urges the Commission to reconsider and reverse its tentative conclusion that a reverse auction mechanism be developed to distribute universal service funds.

B. The Commission Should Eliminate the Identical Support Rule

The URITA concurs with the Commission's tentative conclusion that the identical support rule be eliminated.⁶ The record in these dockets and the initial comments filed herein provide ample support to eliminate the rule. The chart in OPASTCO's comments illustrates the incredible demand and growth the identical support rule has caused in the universal service support fund.⁷ From 2005 to 2008, the growth in universal service support for Competitive Eligible Telecommunications

⁵ For example, see Qwest, at p. 8; NTCA, pp. at 30-46; USTelecom, at pp. 24-26; WTA, at pp. 29-37; GVNW, at pp. 19-26; ITA at pp. 1-7; KRITC, at pp. 2-10; RIITA, at pp. 1-8; TCA, at pp. 15-18; ATA, at pp. 13-16; TSTCI, at pp. 3-7; MoSTCG, at pp. 8-19; MITS, at p. 18; MTA, at pp. 22-23; TAM, at pp. 3-4; JSI, at p. 4; Rural Telecommunications Associations, at pp. 8-15; Panhandle, at p. 2; Embarq, at pp. 17-19; Frontier, at p. 7; ITTA, at pp. 36-42; RICA, at pp. 21-23; and SWC, at pp. 5-6.

⁶ *Identical Support Rule NPRM* FCC 08-4 at ¶ 1.

⁷ OPASTCO, at p. 10.

Carriers (“CETCs”) has grown from \$120 million to \$252 million.⁸ The chart shows clearly that the identical support rule has been the sole source of growth in the support fund; support for rural incumbent providers actually decreased slightly during the same period.⁹ Recent actions by the Commission to cap CETC support are helpful to stop this hemorrhage within the federal universal service support programs. Requiring a cost showing by CETCs as URTA recommended in its initial comments, however, will ensure that support is distributed prudently and in accordance with congressional goals and the Commission’s tentative conclusions in the *Identical Support Rule NPRM*.¹⁰

C. URTA Conditionally Supports the Division of the Fund and There is Record Support To Do So

Like URTA, there are several commenters who support the Joint Board’s recommendations to include broadband as a supported service and to separate the high-cost universal service support fund into the Broadband Fund, the Mobility Fund, and the Provider of Last Resort (“POLR”) Fund.¹¹ URTA’s support for these proposals is conditioned on the POLR Fund being held harmless and that the operation of the POLR Fund be predictable, sufficient, and sustainable using embedded costs to determine the level of support. The Joint Board recognized rural providers’ commendable work in providing voice and broadband service to their customers under the current high-cost

⁸ *Id.*

⁹ *Id.*

¹⁰ *Identical Support Rule NPRM* FCC 08-4 at ¶ 12. *See also, Federal-State Joint Board on Universal Service Seeks Comment on Long Term, Comprehensive High-Cost Universal Service Reform*, WC Docket No. 05-337, CC Docket No. 96-45, Public Notice, 22 FCC Rcd 9023,9026, ¶ 7 (2007 *Joint Board Public Notice*).

¹¹ *See e.g.,* WTA, at pp. 10-26 and Frontier, at pp. 10-12.

support program.¹² No commenter provided any persuasive evidence that would support significant change to the POLR Fund. URITA therefore urges the Commission to keep the fund intact and unchanged to allow rural providers to continue building on the success they have had in serving the customers in rural America.

As stated in its initial comments, URITA opposes the Joint Board's recommendation to cap the combined funds at \$4.5 billion.¹³ That sum is arbitrary and unsupported by any evidence on the record of this case. The elimination of the identical support rule should almost immediately relieve the tremendous upward pressure on the fund and allow the Commission to achieve its other objectives to ensure the availability of high-quality telecommunications, broadband, and mobile service in rural America.

III. CONCLUSION

In summary, URITA supports universal service support reform that is sufficient, predictable, sustainable, and acceptable to lenders to maintain access to capital for investment in rural areas. Dividing the fund into the Broadband Fund, the Mobility Fund, and the POLR Fund with separate budgets and purposes could achieve these objectives if the POLR Fund is held harmless.

The identical support rule should be eliminated which should alleviate the perceived need to cap the combined funds at \$4.5 billion. If the Commission decides that a cap is necessary, the cap should be supported by evidence and be sufficient support to address traditional universal service needs.

¹² *Recommended Decision*, FCC 07J-4 at ¶ 39.

¹³ URITA, at p.4.

Reverse auctions would be a mistake and will not accomplish any of the Commission's reform objectives. Instead, they will harm quality and availability of service in rural areas and the Commission should reverse its tentative conclusion to implement them.

Respectfully submitted this 2nd day of June, 2008.

Callister Nebeker & McCullough

/s/Stephen F. Mecham
Stephen F. Mecham
10 E. South Temple, Suite 900
Salt Lake City, Utah 84133
Tel. 801 530-7300
Email: sfmecham@cnmlaw.com

Attorneys for URTA