**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20554**

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

## REPLY COMMENTS OF THE USA COALITION

The Universal Service for America Coalition ("USA Coalition" or "Coalition"),[1] by its attorneys, hereby submits these reply comments in the above-captioned proceeding in response to the *Notice of Inquiry* issued by the Federal Communications Commission ("FCC") regarding its development of a national broadband plan for the United States.[2] The USA Coalition urges the FCC to adopt a technologically neutral broadband plan that uses the benefits of competition to provide consumers in rural areas with the most advanced broadband services available at the lowest possible cost.

A vibrant, robust, and redundant communications network, which includes high-speed broadband internet access, is essential to the economic strength of the United States and the public safety of its citizens. In order to ensure the strength of the broadband network in rural, insular, and high-cost areas, broadband service must be affordable to residents of those areas. In some of these areas, however, high-speed broadband service will be affordable only with support

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1 The USA Coalition consists of five of the nation's leading rural providers of wireless services, and is dedicated to advancing regulatory policies that will enable Americans to enjoy the full promise and potential of wireless communications, regardless of where they live and work. The Coalition seeks to ensure that our nation's communications policies are technologically and competitively neutral, which facilitates competition that benefits consumers. The members of the USA Coalition include Carolina West Wireless, MTPCS, LLC d/b/a Cellular One, Mobi PCS, SouthernLINC Wireless, and Thumb Cellular LLC.

2 *A National Broadband Plan for our Future*, GN Docket No. 09-51, Notice of Inquiry, FCC 09-31 (rel. Apr. 8, 2009) (*Broadband NOI*).

from the government, either through the Universal Service Fund or another source. As such, the Commission must ensure that any plan it adopts includes provisions for the sustainable growth of broadband services.

## I. THE COMMISSION'S NATIONAL BROADBAND PLAN SHOULD INCLUDE A FLEXIBLE, TECHNOLOGY-NEUTRAL DEFINITION OF BROADBAND SERVICES

The Commission's National Broadband Plan should seek to minimize the government's interference with market forces while ensuring that consumers have access to a competitive broadband market where consumers can select the service type and service provider of their choice. As such, the USA Coalition joins with AT&T in calling upon the Commission to adopt a "flexible, technology neutral definition of broadband [that] is consistent with Congress's intent in enacting the stimulus provisions of the Recovery Act."[3] As AT&T explains, the National Broadband Plan must "include and promote the deployment of services that are tailored to meet an array of needs," and not simply support the fastest or most obvious broadband services.[4] As such, proposals such as those in NASUCA's comments to use a single, simplistic definition for all broadband services based solely on data transfer rates, regardless of the technology or application, are not technologically neutral.[5] Rather, the Commission must consider the market (including the different uses) for various broadband technologies and develop a plan sufficiently flexible to ensure that rural and economically disadvantaged consumers have access to services that are reasonably comparable to those available to urban consumers.

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3 AT&T Comments at 19.

4 AT&T Comments at 18.

5 NASUCA Comments at 19.

In particular, the Commission cannot overlook non-wireline broadband services simply because they offer lower data-transfer rates than traditional wireline broadband service. As RCA explains, "[A]lthough mobile wireless technology currently provides less broadband capacity than some other broadband transmission networks, mobile wireless broadband has other characteristics that make it highly attractive for deployment in unserved and underserved areas."[6] Among these characteristics are the speed with which wireless facilities can be constructed and made operational and the lower expense associated with their construction and operation as compared to other broadband technologies.[7] Furthermore, as T-Mobile points out, "Mobile broadband can increase productivity via increased mobility, safety, and convenience of communications for individuals and business alike."[8] Indeed, one recent study suggests that new wireless broadband investments of $17.4 billion will, within twenty four months, increase GDP by between $126.3 billion to $184.1 billion.[9]

Other technologies also offer advantages that should not be overlooked by the Commission. Free Press points to fixed wireless as a "viable new competitive platform alternative."[10] Additionally, some CLECs continue to consider using legacy copper wire to provide broadband services to customers over lines previously operated by the ILECs.[11] The

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6 RCA Comments at 8.

7 *Id.* at 9.

8 T-Mobile Comments at 4.

9 Alan Pearce & Michael S. Pagano, *Accelerated Wireless Broadband Infrastructure Deployment: The Impact on GDP and Employment*, 18 Media L. Pol'y 11, 11-12 (Spring 2009) (also predicting that the investment will result in an increase of between 4.5 million and 6.3 million jobs).

10 Free Press Comments at 266.

11 *Id.* at 265.

advantages of both of these technologies, and others, must be considered carefully by the Commission as it develops its National Broadband Plan.

In order to determine whether an area should be categorized as unserved or underserved, the Commission should develop two thresholds for broadband service: one for unserved areas (areas without access to *any* broadband services) and one for the underserved areas (areas without access to *advanced* broadband services). The USA Coalition thus supports in principle the California PUC's proposal to define unserved areas as areas that are not served by any form of facilities-based broadband services, or where Internet connectivity is only available through dial-up or satellite services.[12] Furthermore, the USA Coalition also generally supports the California PUC's definition of an unserved area as an area where broadband is available but no facilities-based provider offers speeds of at least 3 Mbps downstream.[13] Regardless of exactly how the two areas are defined, the definitions must be developed in such a way that all broadband technologies and providers have a meaningful opportunity to compete for customers in those areas.

## II. COMPETITION AMONG BROADBAND SERVICE PROVIDERS MUST BE A KEY ELEMENT OF ANY NATIONWIDE BROADBAND PLAN

The USA Coalition adds its voice to the numerous commenters that recognize that the creation of competitive broadband markets should be an essential element of the Commission's National Broadband Plan.[14] As NASUCA explains:

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12 Cal. PUC Comments at 7.

13 *Id.* As it indicated in its initial comments, the USA Coalition favors an upstream data transfer benchmark rate of 768 kbps as a component of the definition of underserved areas.

14 Cal. Puc. Comments at 25; NASUCA Comments at 22; CTIA Comments at 13; NCTA Comments at 29; RCA Comments at 27; Free Press Comments at 265.

> Competitive market forces … provide consumers with the benefits of innovation and technological progress. Competitive forces drive innovation, leading to technological improvements and better products … [and] deliver state-of-the-art technologies.[15]

Furthermore, competition drives prices to more affordable levels for all consumers and drives broadband deployment.[16] As the California PUC points out, the adoption of pro-competitive principles has already led to significant success in broadband deployment throughout California, and there is no reason why these principles will not work if applied at the federal level.[17]

For an example of how competition can positively affect consumer access to broadband services, the Commission need look no further than the wireless broadband market. CTIA correctly points out that "private investment and competition among wireless providers is delivering unparalleled value for U.S. consumers: falling prices, dramatic improvements in service quality, and the ongoing development of new services."[18] Furthermore, because so many carriers are competing to meet consumers' broadband needs, a variety of competitive models have emerged in the wireless broadband market, with advances in technology quickly leading to faster mobile wireless broadband speeds.[19] The Commission should seek to foster the development of similarly robust markets in its National Broadband Plan, including all potential technologies and service providers within its ambit.

Indeed, as NCTA explained, "The Government's role in a national broadband plan should be to provide the framework in which a competitive market can continue to

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15 NASUA Comments at 22.

16 Cal. PUC Comments at 25.

17 Cal. PUC Comments at 25.

18 CTIA Comments at 35.

19 *Id*. at 13.

develop."[20] As the Commission has previously observed, a competitive market is "the best method of delivering the benefits of choice, innovation, and affordability to Americans."[21] When regulations or government support favor specific providers based on artificial distinctions such as regulatory status or technological platform, market distortions will be magnified rather than minimized, and consumers will have fewer service options and face higher prices. Furthermore, as Sprint-Nextel notes, a competitive market "will foster the creation of new jobs and encourage new investment, enabling the telecommunications and information sector to contribute significantly to the nation's economic recovery."[22]

## III. THE COMMISSION'S BROADBAND PLAN SHOULD FOCUS ON REMOVING THE OBSTACLES TO BROADBAND DEPLOYMENT THROUGHOUT THE COUNTRY

Section 254 of the Act requires that universal service support mechanisms provide "specific, predictable, and sufficient" support to ensure that consumers in rural, insular, and high-cost areas have access to communications services that are "comparable" to those provided in urban areas.[23] Today, areas without access to broadband services lack access because the risks (*e.g.*, initial capital expenditures and projected maintenance) associated with expanding into those areas outweigh the potential benefits for service providers. For this reason, the USA Coalition joins with NTCA in urging the Commission to give priority in funding to both network construction and to ongoing operations and maintenance of broadband networks in areas currently without adequate access to broadband services.[24] It is only by addressing both the costs

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20 NCTA Comments at 29.

21 *See, e.g., Moving Forward: Driving Investment and Innovation While Protecting Consumers*, Federal Communications Commission, at 1 (Jan. 15, 2009).

22 Sprint Nextel Comments at 7.

23 47 U.S.C. § 254.

24 NTCA Comments at 17.

of construction and of maintenance that the Commission can ensure broadband access across America.

As several commenters have pointed out, the simplest means for achieving this goal would be for the Commission's broadband plan to advocate for the inclusion of broadband service among the supported services of the Universal Service Fund.[25] USTA correctly asserts that "as networks are evolving towards broadband services," so too "the high-cost universal service fund should evolve to include support for broadband."[26] In acknowledging this evolution, the Commission must be careful not to overlook or ignore any particular carrier type, technology, or other broadband solution in an attempt to develop a single, one-size fits all solution. Rather, as RCA explains, Congress intended that "universal service should support the competitive delivery of services in rural and high-cost areas, based on its view that the marketplace is an effective arbiter of which carriers can best provide services efficiently in response to customer demand."[27] As such, the Commission should ensure that any targeted broadband subsidy program is open to all eligible providers regardless of the technology they use to provide services.[28] This includes mobile services, which are broadly available in urban markets and highly valued by consumers. The USA Coalition agrees with CTIA that "rural consumers have a right to expect the universal service system to ensure their access to wireless services that are 'comparable' to those provided in urban areas."[29] Only by adopting

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25 RCA Comments at 22; Vermont PSC at 4.

26 USTA Comments at 16.

27 RCA Comments at 27 (citing *Alenco Commc'ns Inc. v. FCC*, 201 F.3d 608, 616 (5th Cir. 2000).

28 CTIA Comments at 43.

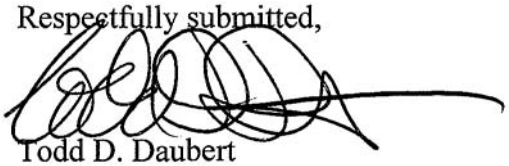
29 *Id.*

technologically neutral rules and programs can the Commission ensure that unserved and underserved consumers have access to the same advantages broadband service provides to the rest of America today.

## CONCLUSION

For the reasons set forth above, the USA Coalition urges the FCC to develop a broadband plan that operates on a fair and technologically neutral basis in order to provide consumers in rural areas with the most advanced broadband services available at the lowest possible rates. Such policies will ensure that all consumers receive the benefit of broadband technologies, regardless of where they live and work.

Respectfully submitted,



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