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

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| In the Matter of: | |
| High-Cost Universal Service Support | WC Docket No. 05-337 |
| Federal-State Joint Board on Universal Service | CC Docket No. 96-45 |
| Advantage Cellular Systems, Inc. Request for Cost-Based Universal Service Support | |

# Reply Comments of SouthernLINC Wireless

Southern Communications Services, Inc. d/b/a/ SouthernLINC Wireless ("SouthernLINC Wireless"), by its attorneys, hereby submits these reply comments in response to the Federal Communications Commission's ("FCC" or "Commission") request for comment on Advantage Cellular Systems, Inc.'s ("Advantage") request for cost-based universal service support ("Request").[1] SouthernLINC urges the Commission to provide full support for all eligible costs to competitive ETCs that submit valid cost studies pursuant to the exception to the interim cap included in the *Interim Cap Order*. To the extent that the Commission determines that Advantage or any other competitive ETC has demonstrated that its costs meet the support threshold in the same manner as the incumbent LEC, then that carrier should be entitled to recover its full submitted costs within in a reasonable amount of time.[2]

SouthernLINC Wireless operates a commercial digital 800 MHz ESMR system using Motorola's proprietary Integrated Digital Enhanced Network (iDEN) technology to

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1 Comment Sought on Advantage Cellular Systems Inc., Request for Cost-Based High-Cost Universal Service Support, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, DA 09-1563 (rel. Jul. 21, 2009).

2 *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834, ¶ 31 (2008) (*Interim Cap Order*).

provide dispatch, interconnected voice, Internet access, and data transmission services over mobile phone handsets. SouthernLINC Wireless is licensed by the Commission to provide cellular communications services in Alabama, Georgia, the panhandle of Florida, and Southeast Mississippi, where it serves nearly 250,000 subscribers over 127,000 square miles. SouthernLINC Wireless is committed to offering high-quality telecommunications services to rural and underserved areas, and approximately half of the total handsets SouthernLINC Wireless supports are used by subscribers located outside of major metropolitan areas. SouthernLINC Wireless is also the wireless service provider to the state of Alabama and to many government agencies in Georgia. In fact, approximately 30% of the total handsets SouthernLINC Wireless serves are used by public employees, first responders, or utility personnel, which illustrates how important the services of SouthernLINC Wireless are to residents in those areas, particularly in times of crisis. In its role as an ETC, SouthernLINC offers Lifeline services to customers throughout its service territory.

## I. CARRIERS THAT SUBMIT COST STUDIES SHOULD BE ENTITLED TO FULL USF SUPPORT FOR ALL ELIGIBLE COSTS

SouthernLINC Wireless, like Home Town Cable, raises no objection to Advantage's request to limit its cost recovery to the amount to which it would be entitled under the identical support rule – if a carrier wishes to receive less support than it is entitled to, other carriers have no reason to object.[3] However, SouthernLINC Wireless joins Home Town Cable in believing that the Commission should treat Advantage's filing as a unique request and "should make clear that [the Commission] is not establishing a general rule limiting cost-based CETCs to

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[3] Home Town Cable Comments at 2.

such level of support."[4] In particular, the Commission should reject USTA's pronouncement that supporting Advantage's operations by providing the full amount of support justified by Advantage's cost-study would "yield a bizarre result …[of Advantage receiving] more than twice the amount [of support Advantage] received prior to the cap."[5] In actuality, the outcome of Advantage's cost study is not a "bizarre" result but rather is evidence that, contrary to assumptions built into the *Interim Cap Order*, the identical support rule does not necessarily result in wireless ETCs over-recovering their eligible costs from the Fund. Rather, Advantage's cost study indicates that in many cases, the identical support rule results in wireless ETCs receiving significantly *less support* than their costs would justify.

The Commission adopted the interim cap based on the largely unsupported theory that increases in high-cost disbursement were "due to increased support provided to competitive ETCs based on the per-line support that that incumbent LECs receive, rather than on the competitive ETCs own costs."[6] In an attempt to alleviate some of the risk forced upon CETCs by its assumption, the Commission sensibly included a fail-safe that, as the FCC explained to the D.C. Circuit, "offers competitive ETCs an exception from the interim cap if their capped support truly is insufficient."[7] Advantage's Request properly seeks to make use of this fail-safe, which

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4 Home Town Cable Comments at 2; *see also* USA Coalition Comments at 7 ("[R]equiring competitive ETCs to file their own cost studies and then basing the amount of support on the identical support rule rather than the filed cot study would be arbitrary and capricious.")

5 USTA Comments at 2.

6 *Interim Cap Order* ¶ 6. Like many other participants in this docket, SouthernLINC believes contends that the finding is the result of both factual and logical fallacies, rendering the interim cap arbitrary and capricious. However, SouthernLINC does not address the illegality of the interim cap here because SouthernLINC respectfully submits that public comment on Advantage's Request is not an appropriate venue for larger policy discussions.

7 Brief for Respondents, *RCA v. FCC*, No. 08-1284, No. 08-1285 (D.C. Cir., filed Mar. 25, 2009) (*Brief for Respondents*).

entitles Advantage to the full amount of its costs. Advantage's decision to seek less than the full amount of support to which it is otherwise entitled should in no way prejudice the ability of other ETCs that submit their costs in the future to recover their full costs.

## II. ADDITIONAL PUBLIC COMMENT ON ADVANTAGE'S REQUEST IS UNNECESSARY AND INAPPROPRIATE

The Commission should reject calls from USTA and ITTA for greater public scrutiny of Advantage's filings.[8] As the USA Coalition explained, "Advantage is relying on an unambiguous exception to the interim cap for competitive ETCs which file a cost study demonstrating that its costs meet the support threshold in the same manner as the incumbent LEC."[9] Advantage is not seeking a waiver of, or change in, the rules.[10] Rather, as the FCC explained to the D.C. Circuit, Advantage is simply making use of "an exception from the interim cap [available] if [a CETC's] capped support truly is insufficient."[11] Instead of engaging in a public discussion of the Request, the Commission should review Advantage's cost study filing in the same manner as it would a cost study submitted by an ILEC, address any questions by seeking clarification from Advantage, and then grant or deny the request, as appropriate.

Indeed, even if the Commission were inclined to publicly discuss the filing, as other participants in this docket have noted "comment on the particulars of [Advantage's] cost study is not possible at this time because the entire study was redacted."[12] SouthernLINC believes that confidential treatment of Advantage's filing is entirely appropriate, and opposes

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8 *See* USTA Comments at 4.

9 USA Coalition Comments at 5.

10 *Id.*

11 Brief for Respondents, *RCA v. FCC*, No. 08-1284, No. 08-1285 (D.C. Cir., filed Mar. 25, 2009) (*Brief for Respondents*).

12 USTA Comments at 4; ITTA Comments at 3.

calls by USTA and ITTA to make more information from Advantage's cost study available for public review.[13] A public discussion of Advantage's filings is no more appropriate than a public discussion of an incumbent LEC's cost study – and constitutes an unnecessary public invasion into that carrier's confidential financial information.[14]

The Commission also should reject attempts by some participants to turn Advantage's Request into a rulemaking proceeding on how cost studies should be conducted for competitive carriers.[15] First, the delay caused by a rulemaking would greatly prejudice Advantage by denying them support for the duration of the proceeding. This result is contrary "to ensur[ing] equitable, non-discriminatory, and competitively neutral treatment of incumbent LECs and competitive eligible telecommunications carriers."[16] Under the *Interim Cap Order*, Advantage is entitled to receive its costs in the same manner as an incumbent LEC "to the extent that it files cost data demonstrating that its costs meet the support threshold in the same manner as the incumbent LEC."[17] This parity with incumbent LECs includes access to USF support within a reasonable amount of time – which precludes an extensive comment procedure. Second, if the Commission keeps its commitment to the D.C. Circuit to engage in "comprehensive reform of the intercarrier compensation and universal service systems in an

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13 USTA Comments at 4.

14 Although SouthernLINC Wireless lacks information to evaluate the accuracy of Advantage's cost-study methodology, it is worth noting that even USTA (which raises numerous objections to Advantage's petition) acknowledges that Advantage's cost study was completed "by a firm well known in the rural ILEC community." USTA Comments at 4.

15 USTA Comments at 4 (discussing how wireless costs should be mapped into elements of the high cost fund).

16 *Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration*, 14 FCC Rcd 20432, ¶ 87 (1999); *see also* Home Town Cable TV Comments at 2.

17 *Interim Cap Order* ¶ 31.

expedited fashion," then the outcome of Advantage's request will have a minimal effect on the universal service support fund.[18] Rather than becoming entangled in a debate on accounting procedures for an interim cap that should soon be obsolete, the Commission could better spend its time considering true USF reform.[19] Indeed, competitively neutral reform, and not a complicated and wholly unwarranted fine tuning of a temporary distribution mechanism that disparately impacts competitive ETCs, should be the focus of the Commission's efforts.

Finally, to the extent that some commenters support using Advantage's submission as "the template for all future wireless CETC studies," Advantage's Request is not the appropriate vehicle for such an endeavor.[20] Rather, SouthernLINC Wireless joins with the USA Coalition in believing that if the Commission wishes to consider the manner in which wireless ETCs should file cost studies in order to receive USF reimbursement, such consideration is better achieved through public notice and comment in broader proceedings of general applicability.[21] Here, the Commission should limit its consideration to whether Advantage's Request meets the requirements of the exception to the interim cap included in the *Interim Cap Order*, reserving consideration of broader reform for more appropriate venues.

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18 *Brief for Respondents* at 21-22 (noting that the formal comment cycle on the Commission's most recent Further Notice of Proposed Rulemaking on universal service reform closed in December 2008 and that there was "a tentative but growing measure of consensus on key issues.").

19 See *Interim Cap Order* ¶ 4 (explaining that the Joint Board intended the interim cap apply until one year after the Joint Board made its recommendation regarding high-cost universal service reform – the Joint Board made its recommendation in November 2007.)

20 ITTA Comments at 4.

21 USA Coalition at 7; *see also AT&T Inc. and BellSouth Corporation, Application for Transfer of Control*, 22 FCC Rcd 5662, 5758 (2007) ("The Commission previously has declined to address in merger proceedings matters in which the public interest would be better served through consideration and resolution in broader proceedings of general applicability.").

## III. CONCLUSION

For the reasons set forth above, SouthernLINC Wireless urges the Commission to review Advantage's cost filing as a unique request, and unless the Commission finds any specific deficiencies that Advantage is unable to address, grant the Request as soon as possible.

Respectfully submitted,

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Dated: September 4, 2009