

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

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Universal Service	)	WC Docket No. 06-122
Contribution Methodology	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	

**To: The Commission**

**Comments of the Rural Telecommunications Group, Inc.**

The Rural Telecommunications Group, Inc. (“RTG”),<sup>1</sup> by its attorneys, hereby submits its comments in response to the Public Notice in the above-captioned proceedings.<sup>2</sup> RTG’s comments are focused on the issues outlined by the Universal Service Administrative Company (“USAC”)<sup>3</sup> that most affect RTG’s rural, wireless competitive eligible telecommunications

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<sup>1</sup> RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG’s members have joined together to speed delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG’s members are small, rural businesses serving or seeking to serve secondary, tertiary, and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Many of RTG’s members are competitive eligible telecommunications carriers adversely affected by the Commission’s interim cap on high-cost support.

<sup>2</sup> *Comment Sought on Request for Universal Service Fund policy Guidance Requested by the Universal Service Administrative Company*, WC Docket Nos. 05-337, 06-122, CC Docket No. 96-45, DA 09-2117 (September 28, 2009).

<sup>3</sup> Letter from Richard A. Belden, Chief Operating Officer, USAC, to Julie Veach, Acting Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 05-337 (August 19, 2009) (“USAC August 19, 2009 Letter”); Letter from Richard A. Belden,

carrier (“ETC”) membership. Specifically, RTG opposes retroactive punishment of ETCs that failed to advertise all nine specific supported services if the Federal Communications Commission (“FCC” or “Commission”) determines that such a specific listing is required. In a similar vein, RTG opposes any remedial actions against carriers that did not maintain documentation for periods being audited prior to the establishment of the explicit high-cost program document retention rule effective March 1, 2008. Further, RTG opposes any implementation of the company-specific caps for AT&T and Alltel prior to implementation of the already arbitrary and discriminatory competitive ETC interim cap.

### **I. Supported Services and Remedial Punishment**

USAC seeks FCC guidance on whether ETCs are required to separately list each supported service enumerated in 47 C.F.R. § 54.101 and the associated charge for each service when advertising the availability of such service pursuant to 47 C.F.R. § 54.201(d)(2).<sup>4</sup> RTG believes that simply advertising “local service” should be enough to meet the requirements of §§ 54.101 and 54.201(d)(2). The use of the commonly understood term, “local service,” combined with customer expectations and experiences with what “local service” means, is more than enough to satisfy the rule and protect the customer. Requiring carriers to advertise “dual-tone multi-frequency signaling or its functional equivalent” or other similar regulatory jargon will serve only to confuse customers. Customers expect dial-tone with local service, as well as access to operator services and directory assistance. Mandating that ETCs list each and every service enumerated in § 54.101 is regulatory overkill. Such a

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Chief Operating Officer, USAC, to Julie Veach, Acting Chief, Wireline Competition Bureau, Federal Communications Commission, WC Docket Nos. 05-337; 06-122 (August 21, 2009) (“USAC August 21, 2009 Letter”).

<sup>4</sup> USAC August 21, 2009 Letter at 1.

listing will only be understood by the FCC, ETCs, and telecommunications industry insiders, while only confusing the customers that the rule is supposed to benefit.

If the FCC decides to require advertising of each listed item, RTG opposes any retroactive punishment for carriers that failed to list all of the supported services or even some of the supported services.<sup>5</sup> Telecommunications carriers concentrate on serving their customers and, as USAC notes, “supported services are bundles and are what the public understands to be ‘local telephone service.’”<sup>6</sup> Carriers serving their customers and operating under this reasonable understanding of what is included in “local service” should not be retroactively punished for not providing their customers with verbatim regulatory jargon. These carriers would have had no notice that the FCC was going to require such information. If the FCC deems it necessary to require such information, it can direct USAC to enforce this requirement on a going-forward basis.

Likewise, the FCC’s March 1, 2008 documentation retention rule § 54.202(e) ought to be enforced on a going-forward basis. According to USAC, it expects a large number of documentation violations in Round 3 of its audit program.<sup>7</sup> RTG opposes the enforcement of a rule that “was not in effect for the time period.”<sup>8</sup> Such draconian enforcement defies logic and basic principles of fairness. Law-abiding carriers should not be punished for rules that are apparently being written as the FCC and USAC go along. While RTG appreciates that a

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<sup>5</sup> *Id.* at 2.

<sup>6</sup> *Id.*

<sup>7</sup> USAC August 19, 2009 Letter at 4.

<sup>8</sup> *Id.*

program that involves federal funding should be refined based on real-world experiences, these refinements and necessary rule changes should not be enforced retroactively.

## II. AT&T and Alltel Cap

USAC seeks guidance on whether the AT&T and Alltel company-specific cap Orders should be implemented for the time periods each Order was in effect, prior to the effective date of the industry-wide competitive ETC cap.<sup>9</sup> USAC did not implement the company-specific caps since it was ordered, in writing, by the FCC not to do so.<sup>10</sup> This FCC decision appears to have been affected by the May 1, 2008 “emergency” *Interim Cap Order*, limiting competitive ETCs to capped support in each state,<sup>11</sup> and apparently superseding the previous cap Orders. As a result of the *Interim Cap Order*, state support for competitive ETCs was capped at March 2008 levels, on an annualized basis. The cap went into effect in August of 2008, although the exact results of the cap were not released until December 2008. In some states, as new competitive ETCs entered the field, support was reduced for all competitive ETCs in those states. The arbitrary and devastating effects of this so-called “interim” cap on small, rural carriers have been well-documented.<sup>12</sup>

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<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.*

<sup>11</sup> *In re High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, Order, WC Docket No. 05-337, CC Docket No. 96-45, 23 FCC Rcd 8834 (2008) (“*Interim Cap Order*”).

<sup>12</sup> *See, e.g., Letter from the Rural Cellular Association to Acting FCC Chairman, Michael J. Copps*, WC Docket No. 05-337, CC Docket No. 96-45 (May 1, 2009) (noting, among other effects, that seven states are ineligible for *any* high-cost funding and that certain states have seen carrier funding shrink to below 50 percent).

Now, any decision to retroactively enforce the AT&T and Alltel caps will further reduce competitive ETC support. As USAC notes, if “USAC were to implement the company specific caps for AT&T and Alltel, *significant amounts of funding* previously disbursed would be recovered from each carrier.”<sup>13</sup> In other words, capped support would be even lower than March 2008 levels if the AT&T and Alltel caps are enforced. Such a decision to reduce capped support available to competitive ETCs would further exacerbate the already deleterious effects of the interim cap. Since the FCC has made its decision to not enforce the AT&T and Alltel cap Orders already and “in writing,” it would be grossly discriminatory and confiscatory to reverse this precedent and rewrite interim cap history.

### **III. Conclusion**

For the foregoing reasons, RTG respectfully requests that the Commission refuse to apply its cap Orders retroactively and instead enforce any new rules and clarifications on a going-forward basis.

Respectfully submitted,

**RURAL TELECOMMUNICATIONS GROUP, INC.**

*/s/ Caressa D. Bennet*

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<sup>13</sup> USAC August 19, 2009 Letter at 5 (emphasis added).