Before the
Federal Communications Commission
Washington, DC 20554

The Role of the USF and Intercarrier Compensation on the National Broadband Plan	)))	NBP Public Notice # 9 GN Docket Nos. 09-47, 09-51 and 09-137

COMMENTS OF NTCH, INC.

NTCH, Inc. (NTCH) hereby submits these comments in response to the Commission's November 13, 2009 request for input on the impact of the Universal Service Fund and intercarrier compensation policies on universal broadband deployment. The reform of intercarrier compensation and USF are both long overdue and desperately needed. NTCH is a Tier III mobile carrier with operations in several regional markets around the US. Literally every day it is adversely affected by unjust subsidies or interconnection policies that significantly impede effective competition in rural markets to the detriment of consumers. So while reform is welcome, the reform process also raises broader and enormously complex issues that must be resolved irrespective of broadband deployment. Nevertheless, it is certainly useful for the Commission to try to integrate its broadband policy into the overall reform effort. With that in mind, NTCH has the following observations.

I. Funding Broadband Through USF Would Be Premature and Counterproductive

Commercial deployment of broadband is proceeding apace without USF support. Because of high and ever- increasing demand for high speed internet connectivity, commercial carriers are rapidly deploying broadband wherever facilities can reasonably be available to do so. Certainly in urban markets and larger metro areas, there is no difficulty getting access to some form of broadband. Here the market is working as it should to steer investment toward expected returns, and no intervention by the Commission is needed. To be sure, the number of competitive offerings in urban areas is not as great as it should be, but if the objective is to ensure some broadband access to all Americans, that objective is being met.

In rural areas where the return on investment is low or non-existent, the broadband stimulus process should soon be working to make operations more viable by subsidizing the capital investments needed to support operations in some of those areas. Unfortunately, we will not know for sure which areas remain bereft of broadband until the stimulus process plays itself out. To throw more money at the problem via the USF before we know whether the problem has been addressed either by straight commercial applications or stimulus support would almost certainly result in waste as needless expenditures are made. Even worse, the prospect of subsidized funding through the USF could actually *retard* commercial deployments because companies which are considering deployment on their own nickel would naturally want to wait and see if subsidies are available. And if subsidies come into force, as we have seen from the current high cost support system, it is virtually impossible to wean the recipients away from that support. The last thing we need at this point is to create another corporate entitlement program whose beneficiaries become permanently dependent on the entitlement.

Once the dust has settled on the current deployment programs, there will surely remain some areas of the US that are so remote or so unpopulated that they are difficult to serve on an ongoing basis even with stimulus funding. However, competitive pressures alone are driving and will continue to drive broadband providers to extend their service areas far more widely than one would have expected. Witness the current advertising battle between AT&T and Verizon over the breadth of their coverage. The handful of consumers in these remote settlements and villages do have alternatives to terrestrial coverage. In the end, however, we as a society may just have to acknowledge that people who live in very remote, high cost areas may not merit subsidization by the rest of us. They live in areas where the cost of food, gasoline, clothing, and everything else is high for the same reason that broadband costs are high – because it is so expensive to deliver the good or service to a remote settlement with few buyers. Oddly, no one is suggesting that the most basic essentials of life – food, gasoline and clothing – should be subsidized for these people. Why should broadband internet access, of all things, receive special treatment?

II. Broadband Support Would Add Unacceptable Costs to the USF Program

Per the recommendations of the Joint Board in 2007, the USF program is already suffering from the demands which have been placed upon it. Several of the supported services have already been capped, including support for high cost service provided by CLECs. The Commission actually declared an "emergency" in the expansion of USF costs and on that basis imposed an interim cap which would otherwise almost certainly have violated the statutory obligation to ensure that support be "sufficient" to meet the costs of participating carriers. 47 USC Section 254(b)(5). The Fund has already substantially exceeded its ability to support the services it is *supposed* to be supporting now. To make matters worse, the Joint Board and the Commission both issued dire warnings that costs would continue to rise sharply in the years ahead for existing services. *High-Cost Universal Service Support*, 23 F.C.C.R. 8834 ("*Interim Cap Order*"). Given the continuing state of crisis in the Fund and the stated unwillingness of the Commission to saddle ratepayers with more surcharges to pay for these existing services, now is *not* the time to add substantial new costs to the program by making broadband a supported service.

To be sure, Congress is currently considering measures that would expressly identify broadband as a USF-supported service. Presumably in that context, Congress will develop a plan to pay for this new support. The better part of discretion at this point is for the Commission to let Congress do its work, including the work of figuring out how this new service will be funded. Pre-empting Congress now would certainly necessitate an increase in USF fees to consumers, undercutting the Commission's position in Court that consumer USF fees cannot be raised higher than they are now.

III. The USF Program Should Be Cut Back Rather Than Expanded

Given the frantic alarms sounded by the Joint Board and the Commission a year and a half ago, with no progress whatsoever in the meantime toward rectification of the underlying issues creating the crisis, the Commission should be seriously considering *reducing* rather than expanding the range of services supported by the USF. As noted above, the high cost support program has become a virtual welfare entitlement for rural LECs who use the subsidy as a perpetual prop for the high costs they continue to generate.

As NTCH has stated elsewhere, a system that rewards carriers who generate high costs will have no end of carriers willing to demonstrate that they too can operate at high cost. The current USF system rewards inefficiency and fails to let competition do the work of compelling service providers to lower their costs. It should therefore be no surprise that high cost requirements keep going up – that is precisely what the system fosters and effectively promotes. And rather than ameliorating the problem by extending high cost support to competing CLECs who could possibly have helped to drive costs down through competitive pressures, the Commission perversely did just the opposite: it severely capped support for the competing carriers while allowing high cost support for monopoly LECs to continue to rise without any cap at all. A repeat of this process in the broadband realm would create a whole new category of anti-competitive subsidies to bloated, wasteful and inefficient legacy service providers while at the same time undercutting the competitive stance of potential new entrants into rural markets who could offer new, different and better services at lower prices if they did not have to compete with a subsidized monopoly.

While the statute does not seem to contemplate the complete abolition of all universal service support, the Commission could certainly act to severely narrow the supported services to those areas which have no alternative to a monopoly provider. This would have the salutary effect of drastically reducing the cost of USF to carriers and the consumers who ultimately pay the tab, and forcing complacent LECs to reduce their costs and start competing in the brave new world of multiple carriers. This might be a bitter pill for LECs to swallow, but it is the consumers, not the LECs, that the Commission should be concerned about, and consumers are the ones who will benefit in the end by this "tough love" approach.

Respectfully submitted,

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