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

In the Matter of	)	
	)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to all Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as amended by the Broadband Data Improvement Act	)	GN Docket Nos. 09-47 and 09-137
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51

To: The Commission

COMMENTS – NBP Public Notice #19
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION

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Summary of Comments – NBP Public Notice #19

In its attached Comments, the Wireless Internet Service Providers Association ("WISPA") urges the Commission to promote the objective of ubiquitous broadband availability by subsidizing providers that serve "unserved" and "underserved" census blocks. By establishing a new subsidy program, the Commission will be able to sustain the funding initiatives created by the American Recovery and Reinvestment Act.

It is high time to transition the high-cost, low-income Universal Service Fund ("USF") from supporting last-century voice services to a system that supports broadband deployment. Initial funding for this program would come from the existing USF contributions for voice services that continue to generate windfall profits for carriers, with additional contributions form broadband revenues for services such as data, VoIP and video distributed over broadband networks. The current system is in sore need of repair because the cost basis for funding support is based on the high costs of wireline voice service, not the lower costs of wireless voice service. As a result, carriers that provide voice services at lower costs reap a significant windfall – the difference between the higher USF cost and the lower actual cost. Further, rural wireline ETCs have been using USF high-cost subsidies to construct new plant capable of providing both voice and broadband service and then allocate all of the capital cost to voice service, thereby successfully obtaining government subsidies for construction of broadband infrastructure.

These excess payments and unwarranted cost allocations should be directed to broadband projects that will further policy goals and subsidize last-mile broadband projects in areas currently unserved or underserved. The Commission should initiate a transition period, beginning January 1, 2010, where the Commission would continue to support already-constructed wireline Eligible Telecommunications Carrier ("ETC") plant for the shorter of: (a) five years, or (b) the remainder of the amortization period for the infrastructure involved. There should be no USF high-cost support whatsoever for new capital expended to construct obsolete landline voice infrastructure on or after January 1, 2010. With respect to wireless voice ETCs, there should be no USF high-cost support beyond December 31, 2010 for *any* wireless ETC that bases its request for support upon a landline ETC's costs, as opposed to the wireless provider's own *actual* costs. Support for new construction occurring on or after January 1, 2010 should be limited to facilities capable of supporting "broadband" service, as defined by NTIA and RUS in the Notice of Funds Availability for the first broadband stimulus funding round.

Middle-mile providers should not be eligible for broadband subsidies, but can obtain an indirect subsidy by charging market rates to subsidized last-mile providers. Directly subsidizing only last-mile providers is administratively convenient, less prone to fraud and, because of the certainty of a subsidized customer receiving last-mile services, encourages private investment.

Per-customer subsidies should be based on the "high costs" demonstrated by a provider using the most efficient and cost effective technology, and based upon a reasonable penetration rate of 40 percent for the census blocks(s) for which subsidies are sought. If the provider can achieve a subscription rate above 40 percent, it should continue to receive the same per-subscriber subsidy. Support should be based upon a forward-looking model, with all applicants in a given geographic area required to submit their own forward-looking costs based on an assumed 40 percent penetration rate. No more than two providers should be eligible for broadband subsidies within any single census block. Broadband subsidies should be available only for new broadband capital expenditures.

Subsidies for broadband should be available only for service to subscribers in census blocks that are "unserved" or "underserved," as those terms have been defined by NTIA and RUS. A broadband provider can propose an area that consists of multiple census blocks, but the assessment of eligibility should be made on a census block-by-census block basis. By harmonizing definitions across the federal agencies, mapping, data collection and funding can occur in a consistent manner at a granular level, which will promote Congressional and Commission objectives.

The Commission, not the states, should determine whether a broadband provider is eligible for subsidization. Voice service ETCs should be required to apply separately to the Commission for status as a broadband provider eligible for subsidies.

All subsidized broadband providers should have "carrier of last resort" obligations and should be required to provide broadband service to any household in its subsidized census blocks that requests service.

The Commission must carefully balance the need for oversight with the burdens created by reporting obligations and other compliance requirements. If the paperwork burdens on recipients are excessive, eligible broadband providers may simply choose to not participate, and areas of the country will remain unserved or underserved. For proper oversight, WISPA offers the following. First, all broadband providers receiving USF funding must file Form 477 as required by Commission rules. Second, Form 477 should be expanded to require annual submission of financial documentation if a carrier wishes to be eligible for USF funds, and Commission staff should review the information to ensure that there is no fraud, waste or abuse under appropriate guidelines. Third, the Commission should have authority to conduct audits of the recipients' finances to determine whether funds are being spent on eligible costs and to conduct field inspections to verify the accuracy of claimed costs and subscriber numbers.

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COMMENTS – NBP Public Notice #19
THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION

The Wireless Internet Service Providers Association ("WISPA") provides these Comments in response to questions asked in NBP Public Notice #19[1] to urge the Commission to incorporate into its National Broadband Plan recommendations that will extend the benefits of the Universal Service Fund ("USF") to facilitate the provision of broadband services to persons in need of access to affordable broadband service. As discussed herein, WISPA believes that, with the appropriate structure, incentives and safeguards, and by funding only expenses for operations that meet broadband speeds in census blocks designated as "unserved" and "underserved," USF subsidies can help promote ubiquitous provision of broadband, consistent with the objectives of Section 706

[1] Public Notice, "*Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*," NBP Public Notice #19, DA 09-2419 (rel. Nov. 13, 2009) ("*Public Notice*").

of the Communications Act of 1934, as amended ("Act"), and the goals of the American Recovery and Reinvestment Act ("Recovery Act").

Background

WISPA was founded in 2004 and represents the interests of more than 300 wireless Internet service providers ("WISPs"), vendors, system integrators and others interested in promoting the growth and delivery of fixed wireless broadband services to Americans. WISPA estimates that more than 2,000 WISPs operate in the United States today. WISPA's ongoing research reveals that WISPs cover more than 2,000,000 square miles in all 50 states. Using primarily license-free frequencies authorized under Part 15 of the Commission's Rules and licensed-lite services in the 3650-3700 MHz band under Part 90 rules, WISPs provide fixed wireless broadband services to more than 2,000,000 people in residences, businesses, hospitals, public safety locations and educational facilities.

As WISPA has made clear in other Comments it has filed in the National Broadband Plan proceeding, WISPs have successfully deployed fixed wireless broadband networks in areas where it is not cost-effective for wireline technologies such as DSL and cable to be constructed. Many small, rural communities that WISPs serve are not located near middle mile transport facilities, towers and other structures are inaccessible and outside investment is largely non-existent. Many WISP networks are situated at the edge of the digital divide, adjacent to areas that are unserved or underserved.

The time has come for the federal government to build on the initial $7.2 billion appropriated under the Recovery Act by extending USF subsidies to providers of broadband that are willing to serve high-cost and low-income areas but have been unable to do so. The filing of nearly 2,200 applications for broadband stimulus funding indicates demand for broadband and a strong desire by broadband companies – including many WISPs – to serve those areas.

But Recovery Act funding is only a start. The Commission has the opportunity to establish a program by which a continuous flow of necessary funding can be distributed over time, with subsidies applied to the smallest geographic areas with the greatest need for broadband access. WISPA believes that this program can be implemented without the perverse incentives that have plagued the existing high-cost program. WISPA wholeheartedly endorses the extension of the USF program to broadband and offers its recommendations on how that can be accomplished fairly and expeditiously.

Discussion

1. Size of the Universal Service Fund.

The existing high-cost, low-income portion of the universal service program is broken. For starters, the subsidies for voice services are not based on an individual recipient's actual costs, but rather on the costs established by the highest cost provider in a given geographic area, regardless of the technology the recipient deploys. As a result, carriers that provide voice services at lower costs reap a significant windfall – the difference between the higher USF cost and the lower actual cost.[2]

WISPA believes that the billions of dollars of inefficiencies in the existing high-cost program can be eliminated, and funds made available to a new broadband program without unduly increasing the burden on retail consumers.[3] By taking windfall-profit

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[2] *See also* discussion in response to item 3.a, *infra*.

[3] WISPA recommends using the same definition of "broadband" that NTIA and RUS are using for last-mile services: "providing two-way data transmission with advertised speeds of at least 768 kilobits per second (kbps) downstream and at least 200 kbps upstream to end users." *See* Notice of Funds Availability, 74

funds and applying them to a high-cost, low-income broadband subsidy program, the Commission would be killing two birds with one stone – eliminating the inefficiencies and perverse incentives in the current high-cost program *and* funding broadband services in unserved and underserved areas, in furtherance of Congressional and Commission objectives.

WISPA does not have an estimate on the amount of funds that will be necessary to ensure ubiquitous broadband availability throughout the nation, but believes it will likely exceed the amount of the overpayment to existing voice ETCs.[4] Accordingly, the contribution pool should include revenues from broadband services, including data, VoIP and video services made available over broadband networks. Recovery Act funds are only a beginning, not an end, and the combination of excess funds from the high-cost program for voice services and new broadband revenue contributions can be applied to sustain expanded broadband access.

2. Contribution Methodology.

WISPA does not at this time take a position on what methodology the Commission should use to assess contributions to a broadband USF fund. However, if the Commission does establish a broadband fund, it should consider raising the existing $10,000 minimum payment threshold so that smaller companies are not adversely affected by excessive contributions. Also, companies should contribute only to the extent they exceed the threshold. For example, if the threshold is $20,000, contribution

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Fed.Reg. 33103 (July 9, 2009) ("*Round 1 NOFA*") at 33108. WISPA previously advocated harmonization of definitions across the federal agencies. *See, e.g.*, WISPA Comments, GN Docket 09-40, filed Apr. 13, 2009.

[4] "ETC" stands for "Eligible Telecommunications Carrier," certified by a state public service commission or the FCC, as the case may be, as being eligible to receive high-cost support funding from the USF.

should be based only on revenues in excess of $20,000, not upon all revenues as soon as a provider reaches $20,001 in revenues.

3. Transitioning the Current Universal Service High-Cost Support Mechanism to Support Advanced Broadband Deployment.

In the *Public Notice*, the Commission seeks comment on various ideas on how to transition to a system where high-cost support would go to broadband, instead of just voice services.[5] Among other things, the Commission suggests that it could "gradually reduce funding under the existing high-cost programs over a period of years and to transition that funding into a redesigned mechanism that explicitly funds broadband."[6] WISPA vigorously supports this idea.

Response to 3.a. As is detailed in both the Commission's USF high-cost proceedings listed in footnote 4 of the *Public Notice* (collectively, the "Pending USF Proceedings"), as well as in the various comments filed with the Commission in those proceedings, the current USF high-cost support mechanism acts as a fraud upon telephone consumers. Voice-service providers, both wireline and wireless, are already on notice from the Pending USF Proceedings that they should not continue to construct new, inefficient, obsolete capital infrastructure to support last-century voice services.

The Commission should initiate a transition period, beginning January 1, 2010, where the Commission would continue to support already-constructed wireline ETC plant for the shorter of: (a) five years, or (b) the remainder of the amortization period for the infrastructure involved. There should be no USF high-cost support whatsoever for new capital expended to construct obsolete landline voice infrastructure on or after January 1,

[5] *See id.* at 2.
[6] *Id.*

2010. With respect to wireless voice ETCs, there should be no USF high-cost support beyond December 31, 2010 for *any* wireless ETC that bases its request for support upon a landline ETC's costs, as opposed to the wireless provider's own *actual* costs. Even as to any wireless ETC which submits a showing of its own true costs of providing service, the subsidy should be limited to the amount by which such wireless ETC's costs exceed its revenues (including without limitation revenues it receives under other USF programs such as Lifeline and Link-up), and not by reference to the irrelevant costs or subsidies of the wireline ETC in the same geographic area.[7]

Support for new construction occurring on or after January 1, 2010 should be limited to facilities capable of supporting broadband service, as defined *supra*. Even then, support should be limited to those providers that are certified as eligible broadband providers by the Commission, which should be a separate certification from the current ETC certification.[8] If, as suggested above, the hemorrhaging of USF through the explosion of high-cost reimbursement is finally contained, there should be sufficient

[7] The interim plan implemented in one of the Pending USF Proceedings has frozen much of the wireless ETC high-cost subsidies, but specifically excluded wireless ETC high-cost support on Native American tribal lands from this interim freeze. That exclusion is a mistake and poor public policy. Giving "high-cost" support to an entity – the wireless provider – that does not incur high costs simply results in a windfall for the provider. That is just as true on tribal lands as elsewhere; the money does not flow through to residents of tribal lands.

The only ETC subsidy money that does flow through to tribal residents is the subsidy for low-income subscribers, Lifeline/Link-up, and nobody proposes to remove that subsidy. In the highly unlikely event that some wireless ETC serving tribal land needs a high-cost subsidy *based upon its own costs, not the wireline provider's costs*, such a tribal-land-serving wireless ETC is free to show what its costs are and get a high-cost subsidy. Otherwise, it makes no sense to provide a misnamed "high-cost" subsidy to a provider without high costs – whether on tribal lands or anywhere else.

[8] *See* response to item 3.i, *infra*. Although the current USF program is supposed to be for voice service, many rural wireline ETCs have been using USF high-cost subsidies to construct new plant capable of providing both voice and broadband service, and then allocating all of the capital cost to voice service, thereby successfully obtaining government subsidies for construction of broadband infrastructure. This practice has given those wireline ETCs an unfair competitive advantage over WISPA members in the provision of broadband service in high-cost areas, severely disrupting the competitive playing field.

funds available in USF to cover broadband deployment without any further increases in the burden already shouldered by telephone consumers, wireline and wireless.

Response to 3.b. Support for deployment of broadband should be limited to true broadband (as defined in footnote 3, *supra)*, and not to slower speeds that some people mischaracterize as "broadband." If mobile providers cannot provide the requisite speed, they should not receive subsidy funding. Our country needs to bring broadband service to those who do not have it, before we worry about subsidizing Smartphones or other mobile wireless devices. Therefore, there should be no separate category for mobile broadband.

Nor should there be a direct subsidy for middle-mile providers in high-cost areas. Middle-mile providers can obtain an indirect subsidy by charging market rates to USF-subsidized last-mile providers that only exist thanks to the high-cost subsidy. This is good public policy, because directly subsidizing only last-mile providers is administratively convenient, less prone to fraud and, because of the certainty of a subsidized customer receiving last-mile services, encourages private investment. It also would be consistent with past practice in the area of voice telephone service, where ETC subsidies have always been based upon subscribers and have never been available for wholesale services.

The *Public Notice* also asks about designing the support mechanism so that a lost customer also means the loss of the subsidy associated with that customer (unlike the current design for voice services, where losing a customer means offsetting larger subsidies for remaining customers). WISPA agrees that such a design is critically important to help mitigate excessive payments and to encourage subscriber retention.

Accordingly, WISPA recommends that the Commission establish a system where per-customer subsidies are based upon the "high-costs" demonstrated by a provider using the most efficient and cost effective technology, and based upon a reasonable penetration rate (WISPA suggests 40 percent, as discussed *infra*) for the involved high-cost area.[9] In other words, if a provider seeks to receive high-cost subsidies for delivering broadband service within a particular census block, it should show its costs, and should base its subscriber projections upon a minimum 40 percent penetration rate within that block.[10] Its per-subscriber high-cost subsidy for that census block should be calculated accordingly (again, after also calculating in any low income subsidy based upon the income levels of the residents of that census block).

If the provider can achieve a subscription rate above 40 percent, that would be consistent with policy goals and demonstrate the success of the broadband subsidy program, and the provider should continue to receive the same high-cost subsidy per subscriber. If it cannot reach 40 percent, it should not be eligible to request a higher per-subscriber subsidy.

Response to 3.c. As proposed by the Commission, support should be based upon a forward-looking model.[11] All providers in a given geographic area seeking to be subsidized should be required to submit their own forward-looking costs based on an assumed 40 percent penetration rate. No more than two providers should be eligible for broadband subsidies within any single census block. If more than two providers seek

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[9] If a second provider in the same geographic area desires to offer service using a less efficient technology, it is free to do so, but subsidies for that provider should not be based upon its own, higher, costs.

[10] The 40 percent subscription threshold derives from the definition of "underserved" that NTIA and RUS adopted in the *Round 1 NOFA*. *See* response to item 3.g, *infra*. Thus, eligibility for broadband stimulus funding and USF broadband subsidies would be based on the same, harmonized standard.

[11] *See Public Notice* at 3.

such status, only the two with the lowest per-subscriber costs in their forward-looking projections should be eligible for broadband subsidies. Even then, the provider with the second-lowest cost projections could only receive the same per-subscriber high-cost subsidy as the provider with the lowest projections. Per-subscriber subsidies are then set, and do not change if assumptions, such as number of customers, turn out to be incorrect.

In this way, the Commission can avoid in the broadband arena the excessive cost model that has developed in the realm of voice ETC subsidies, and keep the overall contribution levels of subscribers in non-high-cost areas within reason.

Response to 3.d. Broadband subsidies should be primarily or exclusively for capital infrastructure expenditures, because once the Commission opens up the spigot for operating expenses, it becomes difficult if not impossible to protect the legitimate interests of subscribers in non-high-cost areas. If a provider already receiving high-cost ETC voice service operating expense subsidies is to calculate what portion of expenses are voice vs. broadband, it should be based upon the amount of bandwidth in the "pipe" being dedicated to one or the other service. If "x" percent of the capacity of the copper/fiber/spectrum is being used to provide broadband, then "x" percent of the operating expenses should be deemed to be broadband operating expenses as well.

Response to 3.e. All revenues should be considered in determining whether the area is indeed a high-cost area that requires USF support, including revenues from other USF sources such as low-income support.

Response to 3.f. As discussed *infra*, there are a number of significant and often burdensome conditions associated with receipt of grants or loans from NTIA or RUS. Nevertheless, the Commission should not entirely ignore such grants or loans in disbursing USF support. No provider should be denied USF subsidies just because it is already receiving NTIA or RUS funding. Nor should the *potential* for future NTIA or RUS funding be used in determining USF support levels. However, if and when a broadband ETC receives actual funding, it should be required to update its cost projections based upon such NTIA/RUS award, and decrease the size of its per-subscriber subsidy in accordance with the revised projections.[12]

Response to 3.g. WISPA supports a granular approach to broadband subsidization, targeting the specific census blocks that need subsidies. Census blocks, which are smaller and more precise than census tracts, are the geographic area the Commission should use. At WISPA's urging,[13] NTIA and RUS use census blocks as the unit of geographic area to assess eligibility for broadband stimulus grant or loan funding, and the ability to harmonize areas will lead to more uniform mapping and data collection for funding areas, irrespective of the agency providing the funding. A broadband provider can propose an area that consists of multiple census blocks, but the assessment of eligibility should be made on a census block-by-census block basis.

Broadband subsidies should be available only for service to subscribers in census blocks that are "unserved" or "underserved." The Commission should use the definitions of "unserved" and "underserved" that are used by NTIA and RUS:[14]

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[12] This discussion assumes the involved provider is already receiving subsidies based upon its *own* costs, and not upon the costs of another, lower-cost provider. *See* discussion in responses to items 3.b & 3.c, *supra*. If there are two providers receiving broadband high-cost subsidies in the same geographic area, when one of those providers has its per-subscriber subsidy reduced, the other must have its per-subscriber subsidy reduced, effective the same day. Providers should be required to waive all rights to advance notice or to protest the reduction, as a condition to being certified as an eligible broadband provider in the first place.

[13] *See Round 1 NOFA* at 33132, n.38.

[14] Because WISPA is proposing that lower-speed mobile services be excluded from the definition of "broadband," corresponding changes in the NTIA and RUS definitions are suggested.

Unserved area means a proposed funded service area, composed of one or more contiguous census blocks, where at least 90 percent of households in the proposed funded service area lack access to facilities-based, terrestrial broadband service . . . at the minimum broadband transmission speed.

Underserved area means a proposed funded service area, composed of one or more contiguous census blocks meeting [at least one of the following] criteria . . . 1. no more than 50 percent of the households in the proposed funded service area have access to facilities-based terrestrial broadband service at greater than the minimum broadband transmission speed . . . ; 2. no fixed or mobile broadband service provider advertises broadband transmission speeds of at least 3 megabits per second ("mbps") downstream in the proposed funded service area; or 3. the rate of broadband subscribership for the proposed funded service area is 40 percent of the households or less.[15]

The mere presence of one provider would render a census block "underserved" rather than "unserved," but would not eliminate eligibility for broadband subsidies, because one of the three prongs of the NTIA/RUS "underserved" definition is that of broadband household penetration in the census block. This is key, because if high costs have made the price of subscription too high for most households, both the existing provider and a new provider should receive subsidies to bring down the monthly subscription cost.

As set forth in the response to item 3.c, *supra*, forward-looking projections would assume that at least 40 percent of households subscribe to determine the size of the per-subscriber subsidy. In addition, a provider seeking a high-cost subsidy in a census block where there is already an existing provider should state what it would charge for service and why the provider believes that such a rate would promote increased broadband penetration compared to the incumbent provider's non-subsidized rate. Providers that

[15] *Round 1 NOFA* at 33109 (footnote omitted). In its Comments to NTIA and RUS concerning the second funding round, WISPA recommended that the second criterion (regarding advertised speeds – be eliminated from the definition of "underserved." *See* Comments of WISPA, Docket No. Docket No. 0907141137-91375-05, filed Nov. 30, 2009. If NTIA and RUS follow WISPA's recommendation, the Commission should follow suit.

charge higher rates than those they promised in their funding applications should have their broadband subsidies for the involved area terminated.

Response to 3.h. There should be a cap on subsidies in any given census block. WISPA would be amenable to a per-household cap on high-cost subsidies, or any similar type of cap that avoids bizarre geographic re-distributions of money. The Commission should keep in mind that high-cost subsidies are not the only types of subsidies – they are layered on top of low income subsidies that are also going to many of the same geographic areas. The combination of a capped high-cost subsidy with a low-income subsidy for eligible residents is more than sufficient to meet the Congressional and Commission goals of universal broadband service.

Response to 3.i. Due solely to historical state regulation of voice services, the state public utility commissions have had a major, and not helpful, hand in the certification of voice ETCs. There is no historical state regulation of broadband, and the Commission should act to prevent such state regulation from developing.

Broadband providers should demonstrate their eligibility to the Commission, and obtain certification only by the Commission. There should be a single standard, applied by a single federal agency. Voice service ETCs, whether they were originally certified by a state PUC or the FCC, should be required to apply separately to the FCC for status as a broadband provider eligible for subsidies. As previously noted, each such broadband application should be required to include the forward-looking costs using the 40 percent penetration assumption, as well as an exhibit demonstrating that the proposed subsidy area qualifies as either unserved or underserved.

4. Impact of Changes in Current Revenue Flows.

The Commission asks a series of questions concerning the effect that changes to the USF program will have on existing subsidy recipients.[16] WISPA has articulated *supra* the inefficiencies and waste in the existing system that supports last-century telephone services and creates windfalls for wireless carriers that have substantially lower actual costs. WISPA adds that it is the government's obligation to take measures to promote broadband service under Section 706 of the Act and the Recovery Act. Changes to the USF program should have the effect of providing broadband services for people living in areas that are currently unserved or underserved. Further, the government should be concerned about promoting competition in the provision of broadband services, not simply in ensuring the health of individual incumbent providers, especially those that have a history of receiving excessive subsidies above and beyond their actual costs.

In addition, as discussed *supra*, any revised USF mechanism should consider the effects of churn. Subsidies under the broadband program should be reduced if subscribers cancel subscription to subsidized broadband service.

5. Competitive Landscape.

WISPA believes that all broadband providers receiving subsidies should have "carrier of last resort" obligations in the subsidized census block(s) and should be required to provide broadband service to any household in that census block requests service. This will have the effect of speeding the provision of broadband service to all Americans, consistent with Section 706 of the Act.

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[16] *See Public Notice* at 4.

6. High-Cost Funding Oversight.

The Commission asks about the "appropriate oversight and accountability mechanisms" it should implement to minimize waste, fraud and abuse and to ensure compliance.[17] WISPA believes that the Commission should carefully balance the need for oversight with the burdens reporting obligations and other compliance requirements will have on recipients. If oversight is not meaningful, the prospect of waste, fraud and abuse increases. Conversely, if the paperwork burdens on recipients are excessive, eligible broadband providers may simply choose to not participate, and areas of the country will remain unserved or underserved.

WISPA offers the following recommendations. First, all broadband providers receiving USF funding must file Form 477 as required by Commission rules. Though broadband providers are required to submit this form annually, there is no active enforcement for failure to file. Recipients of broadband funding should face termination of subsidies if they fail to file Form 477.

Second, Form 477 should be expanded to require annual submission of financial documentation for USF recipients, in addition to the subscribership information already required by the form. Commission staff should review the information to ensure that there is no fraud, waste or abuse under appropriate guidelines. Reports should be filed annually, not quarterly, in order to minimize burdens on subsidy recipients.

Third, the Commission should have authority to conduct audits of the recipients' finances to determine whether funds are being spent on eligible costs and to conduct field inspections to verify the accuracy of subscriber numbers.

[17] *Id.* at 6.

Some WISPA members elected to not participate in NTIA and RUS funding opportunities because the compliance burdens would have been excessive, especially for small businesses that serve rural areas where the need for broadband is greatest. The Commission should ensure that the rigors of complying with its broadband funding program does not produce a similar outcome, but rather results in the reasonable and timely deployment of broadband in unserved and underserved areas.

Conclusion

The time has come for the Commission to overhaul its USF support program. The windfalls that have benefited some voice carriers over the years should be re-directed to supporting the availability of broadband service in "unserved" and "underserved" census blocks, supplemented with contributions based on broadband revenues, and with rules and safeguards designed to prevent the historical inefficiencies and misdirected funding that have plagued the last-century high-cost, low-income support program for voice services. WISPA urges adoption of the recommendations described in the foregoing Comments.

Respectfully submitted,

THE WIRELESS INTERNET SERVICE PROVIDERS ASSOCIATION

December 7, 2009

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/s/ Jack Unger, Chair of FCC Committee

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