Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
The Role of the Universal Service Fund	)	GN Docket Nos. 09-47, 09-51 09-137
And Intercarrier Compensation in the	)	
National Broadband Plan	)	
	)	

THE PUBLIC SERVICE COMMISSION OF THE US VIRGIN ISLANDS

COMMENTS - NBP PUBLIC NOTICE #19

The Virgin Islands Public Service Commission
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The Public Service Commission of the US Virgin Islands (VI PSC) respectfully submits its comments in the above referenced proceeding in response to Public Notice #19 released November 13, 2009.

Summary of Comments

We strongly support the inclusion of access to broadband services among the services that are supported by the Universal Service Fund (USF). We believe such access is fundamental to the economic development of the Virgin Islands. However, we also have some concerns which are more fully described in these comments.

Our biggest concern is with the size of the funds that would be made available in the Virgin Islands. Under the current USF high cost support programs, competitive service providers in the Virgin Islands receive proportionately far less than their counterparts on the U.S. mainland. This is principally due to the timing of the emergence of competitive eligible telecommunications carriers (CETCs) relative to the imposition of interim USF funding caps by the FCC. Our first and only CETC was granted eligibility designation in 2008 and it served only a small part of our population

when the cap was imposed. We understand the need for controlling the explosive growth of USF received by CETCs in recent years. Nevertheless, we urge the FCC to take into account the unique circumstances of the USVI and other rural areas with no or few CETCs. One-size-fits-all solutions will almost inevitably work to the disadvantage of our residents. We strongly urge the FCC to exempt USVI CETCs from the cap and to continue the per-line support under the identical support rule without a cap at least until three or more CETCs provide services in the Territory. If the FCC decides that a cap is necessary for Virgin Island CETCs, it should be set at a level comparable to the proportion of USF funds received by CETCs on the U.S. mainland.

We are also concerned with the impact of any change to the current USF programs that could undermine ubiquitous deployment of basic telecommunications services, both wireline and wireless, in the Virgin Islands. As the FCC has recognized in the past,[1] the telecommunications landscape is drastically different in the Virgin Islands than on the U.S. mainland. We are served by only one wireline carrier and have only one, relatively small, wireless CETC. There are numerous areas in the Territory that are currently in need of basic narrowband voice grade wireless connectivity. The focus of the VI PSC in past annual USAC reviews of ETCs has been on expanding or upgrading basic coverage. Reductions to the existing programs could jeopardize that work.

Finally, we are concerned about the impact a broadening of the contribution base to include basic local service would have on affordability of that service. The average per capita income of the Virgin Islands is less than half of the average on the U.S. mainland while wireline and wireless local service rates are higher. Even with a Life Line/Link-Up program, some of our residents will find it difficult to pay for basic telecommunications service. Increasing USF surcharges could lead to a decline in subscribership for basic local services.

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[11] For example, the proposals for universal service reform released in November, 2008, specifically excluded Alaska, Hawaii and all US possessions and territories because these areas had different attributes than the continental states. See FCC 08-262

As requested, we are responding using the organization and structure of questions in NBP Notice #19. We have not provided responses to all questions, focusing instead on policy issues.

Question 1: Size of the Universal Service Fund

1a. Is the relative size of funding for each support mechanism appropriate to achieve the objective of universalization of broadband?

The size of the funds for the low income (Life Line and Link-Up), Schools and Libraries and Rural Health Care programs has not been an issue in the Virgin Islands. However, the current cap on high cost support by CETCs has the potential to limit badly needed infrastructure growth. Expanded and upgraded infrastructure is essential for both voice and broadband services. Existing wireless carriers are discouraged from applying for ETC designation because they will see very little USF support. The current CETC cap in the Virgin Islands is roughly $950,000 per year, about 7% of the funding received by the ILEC. More CETCs would mean this amount is shared and there would be too little for any service provider to expand to underserved areas or to deploy advanced services.

Last year, the VI PSC asked for a "carve out" or exemption from the interim cap on CETC USF funding[2] but the FCC did not respond. While it may be appropriate to cap CETC funding in other jurisdictions, such a cap is potentially disastrous for us. Because the only CETC is small, USF support is small. It is doubtful existing funding is sufficient to bring ubiquitous voice grade wireless services to the entire Territory within the next 3-5 years. Certainly, there is not enough to support universalization of broadband while also striving for universalization of voice grade services. We strongly urge the FCC to exempt the Virgin Islands from any funding

[2] See Comments of the Virgin Islands Public Service Commission, WC Docket 05-337 CC Docket 96-45, dated April 3, 2008. See also letter from Mr. Joseph B. Boschulte, Chairman, VI PSC to Acting Chairman Kevin Martin, dated February 11, 2008, in the same dockets.

caps at least until support reaches the same level as the average rural area on the U.S. mainland. CETCs in rural areas of the U.S. receive about 27% of the high cost support received by ILECs. Therefore, a reasonable cap for Virgin Islands CETCs would be 27% of the USF provided to VITELCO, our ILEC.[3]

Only 36% of our residents have access to broadband services as compared to 62% on the U.S. mainland. Studies have shown a strong positive correlation between broadband penetration and higher paying jobs. Therefore, we believe the universalization of broadband in the Virgin Islands is essential for economic growth. Our economy is weak. More widespread and affordable broadband Internet access would give us the opportunity to grow by expanding beyond tourism and competing in other economic segments. We urge the FCC to provide assistance to meet this goal. This assistance should be incremental to the existing USF programs.

1b. Some commenters have urged the Commission to take actions that would increase the size of one or more of the support mechanisms, while others have suggested the total fund size should remain the same. To the extent commenters believe funding should be significantly increased for one or more of the support mechanisms, they should address whether they believe funding should be reduced in other mechanisms, and if so, how such changes would advance the goal of universalization of broadband?

We do not believe the goal of universalization of broadband access can be achieved in the Virgin Islands without providing additional funding. Certainly, it should not be achieved at the expense of universalization of voice grade services. Currently, USF received by the CETC are being used to construct network facilities primarily used for wireless voice grade services in unserved and under-served areas, although some of these facilities are also capable of use for

[3] At the level of funding projected for 2010 by USAC, the CETC cap would be $4.1 million under this proposal. Using the identical support rule, each CETC would be eligible for support only for the actual number of access lines it served. Thus, if no additional CETCs were granted eligibility, the actual support level would be no higher than it is currently.

wireless broadband services. Full scale broadband deployment should be incremental to the voice network.

We do not support shifting funds from the low income program. The demand for Lifeline and Link-Up is significant in the Virgin Islands. Our poverty rate, about 32%, is more than double the rate for the U.S. mainland. Consequently, diverting funds from these programs would hurt those most in need and would disproportionately affect the Virgin Islands. Further, lower income people are less likely than the rest of the population to subscribe to broadband access services. Thus, benefits for the poorest would be taken away to benefit those with greater economic resources.

We also do not support shifting of funds from the Schools and Libraries or Rural Healthcare programs. These programs, like the low income program, are designed to assist those most in need. In addition, many of the services being supported include broadband access. If any changes are needed, funding should probably increase.

Question 2: Contribution Methodology

Question 2 requests comments on various methods of assessing contributions, including a numbers or connection based methodology or an expanded revenue based methodology.

2a. Commenters should explain how their preferred solution would impact end users, who ultimately bear the cost of universal service through carrier pass-through charges. Commenters should identify with specificity all assumptions.

As the FCC has recognized, any expansion of the contribution base will be passed to the end user customer and will be perceived as an increase in the cost of telecommunications services. This is true regardless of whether the contribution is based on numbers, connections or

revenues. While we do not disagree with the idea that the burden of universal service should be borne equitably by all, we believe the contribution methodology should take into account the affordability of local services after the contribution has been assessed. Incomes in the Virgin Islands are less than half of the average on the U.S. mainland but rates for local services are higher. Therefore, the affordability of telephone service is already under stress.

As an alternative to assessing the same amount per number, connection or revenue dollar across the country, we propose a more progressive approach. The contribution rate on services in each state or territory should be indexed to the per capita income. Thus, consumers in wealthier states would pay a little more but lower income states would be able to keep the total telephone bill to an affordable level. If a revenue based formula was selected, the contribution rate for all services other than basic local service could be the same nationwide. We believe the approach we propose is administratively workable. The per capita income data required is readily available and the calculation is straight forward.

2b. Commenters should specify how any proposed modifications would alter the relative share of contributions borne by residential consumers as opposed to business consumers.

Although the choice of contribution methodologies would affect the relative share of contributions borne by residential or business users, indexing the contribution rate to per capita income would not. The same index would be used for both classes of customers.

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

The Public Notice requested comments on transition issues only from service providers. Nevertheless, we would like to take this opportunity to comment on policy issues that are important to the Virgin Islands.

Question 3a raises the possibility of maintaining the existing USF programs temporarily while phasing in a new broadband fund. As discussed earlier, we believe it is essential that the existing programs be maintained indefinitely and that the Virgin Islands should be exempted from funding caps at least until support reaches the same level as the average rural area on the U.S. mainland.

Question 3b asks whether separate high cost funding structures should be used for fixed vs. mobile broadband or for middle mile vs. last mile. Question 3g asks whether the funding mechanism should narrowly target support to small geographic areas where broadband service is not available today from any provider. We believe such distinctions greatly increase the complexity of high cost fund administration and run the risk of arbitrary allocations unrelated to actual needs in each state or territory. As the FCC has acknowledged on numerous occasions, the states are in a far better position to evaluate local needs than the FCC. The states should be given a significant role in deciding where broadband funds are to be allocated.

Question 5: Competitive Landscape

Question 5 requested comment on various carrier of last resort (COLR) obligations. In the Virgin Islands, the ILEC is currently the only carrier with COLR obligations. COLR obligates a service provider to provide service to anyone who requests it regardless of whether that service is economically justified. Carriers without COLR are free to choose which segments of the market they want to serve and typically target more profitable customers.

5a. How does this disparity in regulatory obligation impact the economics of deploying broadband in rural areas? Should the national broadband plan evaluate whether COLR obligations should be revisited in light of the changing competitive landscape? If so, how and why?

In theory, a carrier without COLR obligations would only want to serve the most profitable customers and would avoid serving high cost geographic areas or low volume market segments. This is more of an issue for wireline CETCs than for providers of wireless broadband because wireline networks require a higher amount of investment in transport facilities such as interoffice and distribution cable and wire. Nevertheless, even wireless service providers could be expected to prioritize their investment in broadband transmission equipment to serve the greatest number of the most profitable customers. Unless the cost of serving unprofitable customers was completely covered by a broadband USF mechanism, we believe imposing broadband COLR obligations on CETCs would drive them to withdraw from the USF program. This would thwart the intended purpose of the program – to extend access to broadband capabilities to all people of the United States.

5b. Should the broadband plan recommend that COLR obligations be removed or modified if any entity no longer is receiving universal service support?

If the FCC decided to expand COLR obligations to include broadband access and if the cost of those obligations was covered under USF, then COLR obligations should be removed if a service provider no longer receives USF support for broadband.

5c. What would be the impact of requiring all entities that accept universal service support for broadband to assume some form of COLR obligation for broadband?
5d. What would be the impact of requiring entities that accept universal service support for broadband to offer the underlying transmission on a common carrier basis?

Section 254 of the federal Telecommunications Act and FCC rules currently require all CETCs to offer their services throughout their service areas. If the FCC includes broadband

access as a supported service and provides support for uneconomic deployment, then we believe it would be equitable to require some form of COLR obligations. However, if support was inadequate to underwrite the costs of access in uneconomic geographic areas, we believe service providers will withdraw from the USF program.

Conclusion

The Virgin Islands Public Services Commission applauds the efforts of the FCC in developing a National Broadband Plan. We support the objective of bringing broadband access to everyone in the United States, including Territories like the U.S. Virgin Islands. However, we believe the funding mechanism should be fair for all. Ubiquitous broadband availability should not jeopardize the existing programs that make access to voice grade services affordable. Funding caps, if needed at all, should not penalize jurisdictions with few or no CETCs.

We are also concerned about the impact of expanding the contribution base to include local services. Whether based on numbers, connections or revenues, expanding the contribution base will increase the amount of the customer's local telephone bill. We favor an approach that indexes the contribution rate on local services to the per capita income of each state and territory.

Respectfully submitted,

The Virgin Islands Public Services Commission

By: Joseph B. Boschulte
Chairman

Dated: December 7, 2009