Before the Federal Communications Commission

Petition for Rulemaking to
Reduce Universal Service
High Cost Support Where There
Is Extensive Unsubsidized Facilities-
Based Competition

GN Docket No. 09-51
WC Docket No. 05-337
RM-11584

To: Wireline Competition Bureau

COMMENTS OF NTCH, INC.

NTCH, Inc. ("NTCH") offers this brief comment in general support of the petition for rulemaking submitted by the National Cable and Telecommunications Association ("NCTA") to reform the method for distributing high cost support. NTCH believes the NCTA proposal is an excellent first step in addressing a fundamental problem with the current USF distribution system: too much money is being distributed overall, and, more specifically, too much money is being distributed to carriers in circumstances where subsidies are not justified. However, as will be explained, NTCH believes that NTCA's proposal does not go far enough in remedying the current situation.

I. The Reforms Requested by NCTA -- With Modifications -- Will Optimize USF Funding

NTCH agrees that high cost support should be withdrawn in areas where unsubsidized competitive service is being provided. This simple but dramatic measure would have the salutary effects of 1) significantly reducing the overall cost of the high cost support program, 2) leaving more support available for the areas that really need it, 3) incentivizing LECs to improve productivity and efficiency in order to compete with unsubsidized carriers, and 4) making competition between new carriers and LECs more fair. The proposal would also serve as recognition that many customers no longer need or want traditional wired phone service because there are alternative means of staying connected. As a society, we should now be ready to "cut the wire" and move to a subsidization paradigm that acknowledges all types of telecommunications media as capable of meeting people's basic needs. Where private investment is ready and willing to supply basic services without a subsidy, it makes no sense to continue subsidizing legacy carriers to provide those same services. So NTCA's proposal is a good one that significantly advances the ball toward a sustainable and efficient USF system.

NTCH believes, however, that NTCA's proposal does not go far enough in three key respects. First, NTCA unaccountably would exclude both wireless carriers and VoIP providers from the assessment of whether there is a competitive provider in the same market as the currently subsidized provider. The only rationale offered for this exclusion is that these types of service providers would "add complexity" to the analysis. In fact, the inclusion of wireless carriers like NTCH might actually simplify the process since the presence of multiple wireless carriers in a given market would very clearly and beyond dispute establish that competition is present in the market, even if there were no wired competition to the LEC. More importantly, the whole premise of NTCA's proposal is that no LEC subsidy is necessary if an unsubsidized competitive provider is providing service in the same market. If basic services are available to the people in the market from whatever source, that should be sufficient to eliminate the high cost subsidy to all carriers in that area. Of course, so-called "over the top" VoIP providers should only qualify as true competitors in the market if they are providing the range of services necessary to meet people's basic needs as prescribed in the ETC rules.

Second, NTCA would limit a declaration of a competitive situation to one in which there is currently an unsubsidized competing provider. Under the current rules, wireless carriers and other CETCs are eligible for ETC status and thus do receive subsidies in some markets. However, the amount of these subsidies is severely constrained by the interim cap on high cost support to such carriers and the refusal of USAC to re-distribute the USF monies disclaimed by Verizon and Sprint in connection with certain mergers. CETCs thus receive only a fraction of the funds necessary to meet their high cost support needs. In NTCH's view, it makes the most sense to eliminate subsidies to <u>everyone</u> who is getting service in a competitive market if any provider in the market declares its willingness to provide service without a subsidy. Many wireless carriers and other ETCs would be willing to renounce the small amount of high cost USF support they currently receive in exchange for the long run gain of having a far more competitive situation in which to do business. Again, the controlling principle should be that no subsidy is needed where a carrier is willing to provide needed services on an unsubsidized basis. On the other hand, if no carrier is providing or willing to provide service to a market on an unsubsidized basis, that is a strong indication that the subsidy is actually needed.

Finally, NTCA's proposal would establish competition in 75% of the households in a market as the threshold for declaring a competitive situation. NTCH believes that competition over 30 - 50% of the market is a more reasonable threshold for shifting the burden to the LEC to justify continued support in the non-competitive areas. Even at the 50% level, there would remain the situation that almost half of a market could be competitively served, but the LEC would still be enjoying subsidies for the entirety of the market. Conceptually, NTCA's proposal should apply to <u>all</u> areas where there is a competitive service provider. We assume the 75% threshold was proffered in order to simplify things from the Commission's standpoint. Similar simplification could be achieved while setting the threshold at a much lower rate.

II. Further Reforms in USF Process

As long as the Commission is undertaking a fairly radical review of the FCC distribution process, it would behoove all concerned to remedy other glaring defects in the current process. One fundamental problem frequently encountered by wireless carriers in seeking ETC designation is that their licensed serving areas usually do not coincide with the boundaries of wireline study areas. A prospective ETC must therefore undertake a cumbersome process of redefining the study area to coincide with its own serving area, and even then the study area may not be defined to include less than full wire centers. This obligation to tie all USF support to wireline study areas has become more and more obsolete as wireline study areas cease to be the dominant metric for the provision of service. Nor is there any discernable need to ensure exact conformity between study areas/wireline centers and wireless service contours which are unrelated to those boundaries. Both wireline and wireless carriers should receive -- or not receive -- USF money based on the territories they themselves serve, not the territories their competitor serves. With today's technology, it would not be a difficult matter to determine the areas of overlap and assign revenues accordingly. This single measure would significantly simplify and streamline the ETC designation process, sparing state PUCs unnecessary effort and applicants unnecessary costs and delays. It would also ensure that both carriers, not just wireline carriers, receive support for the entire areas where they provide services eligible for support.

III. Conclusion

NTCH urges the Commission to pursue the concept advanced by NTCA but develop the idea so as to achieve broader impact and consistency of application.

Respectfully submitted,

NTCH, Inc.

By: _______/s/____________

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