Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matters of	)	
	)	
National Cable & Telecommunications Association Petition For Rulemaking to Reduce Universal Service High-Cost Support Provided To Carriers In Areas Where There Is Extensive Unsubsidized Facilities-Based Voice Competition	)	RM-11584
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337

COMMENTS OF TIME WARNER CABLE INC.

Time Warner Cable Inc. ("TWC") hereby submits these comments in support of the Petition for Rulemaking filed by the National Cable and Telecommunications Association ("NCTA") on November 5, 2009, and placed on public notice by the Commission on December 8, 2009.[1] In the Petition, NCTA proposes that the Commission establish procedures to reduce the amount of universal service high-cost support provided to carriers in those areas of the country where there is extensive, unsubsidized facilities-based voice competition and where government subsidies no longer are needed to ensure that service will be made available to consumers. TWC strongly supports this proposal, as its adoption would help to reduce the bloated size of the universal service fund ("USF"), ensure that limited USF resources are directed to where they will be most useful, and facilitate the transition to potential broadband support mechanisms. Accordingly, as the Commission considers universal service reform, either

---

1 *See Public Notice: Comment Sought on the National Cable & Telecommunications Association Petition For Rulemaking to Reduce Universal Service High-Cost Support Provided To Carriers In Areas Where There Is Extensive Unsubsidized Facilities-Based Voice Competition*, DA 09-2558 (Dec. 8, 2009).

in the context of the National Broadband Plan or more generally, it should adopt rules to implement NCTA's proposals as one of its first steps toward establishing a more sustainable, efficient, and effective funding mechanism.

BACKGROUND

TWC is the second-largest cable operator in the United States, with operations in 28 states and more than 14 million customers. TWC offers video, voice, and broadband data services, as well as "double play" and "triple play" bundles, and faces vigorous competition within each category. Despite its extensive service footprint and operations in many rural areas, TWC receives no high-cost universal service support. At the same time, the incumbent local exchange carriers ("ILECs") with which TWC competes in many areas receive substantial subsidy flows from USF. Despite this disparity, TWC has successfully deployed high-quality services that offer significant value to consumers in urban and rural areas alike.

DISCUSSION

TWC appreciates this opportunity to comment on the Petition, which raises issues that are among the most pressing faced by the Commission—including those related to the detrimental and unsustainable growth in the USF. As TWC has explained in previous comments, the runaway growth afflicting the existing USF support mechanisms—including in particular high-cost support—is imposing significant and unwarranted burdens on consumers.[2] This sentiment has been echoed by the Commission, as well as by the courts and other federal agencies. For example, the Commission and the Joint Board have recognized that the USF program has been

[2] *See* Comments of Time Warner Cable Inc.— NBP Notice # 19, GN Docket Nos. 09-47, 09-51, and 09-137 (Dec. 7, 2009); Reply Comments of Time Warner Cable Inc., WC Docket No. 05-337, CC Docket No. 96-45, at 4-5 (May 16, 2008); Comments of Time Warner Cable, WC Docket No. 05-337, at 4-6 (May 31, 2007); Comments of Time Warner Cable, CC Docket No. 01-92, at 21-28 (Oct. 25, 2006).

plagued by "explosive growth in high-cost universal service support disbursements," and as a result "is in dire jeopardy of becoming unsustainable."[3] Indeed, the Fifth Circuit has noted that "excess subsidization in some cases may detract from universal service by causing rates unnecessarily to rise, thereby pricing some consumers out of the market."[4] Making matters worse, the Government Accountability Office has identified a litany of problems in connection with these funds, ranging from insufficient oversight to an absence of demonstrated need.[5] Such factors have fueled a nearly unanimous cry for reform.

Because the bloated size of the USF has reached crisis proportions, TWC believes that the Commission must take decisive measures to reduce or at least freeze overall funding. In particular, TWC has urged the Commission to ensure that its funding awards are justified by empirical demonstrations of continued need, explaining that no carrier—ILEC or competitor—should continue to receive support simply because it has received support previously.[6] Notably, current subsidy flows received by ILECs (and to a lesser extent by competitive ETCs) have not been justified by any such demonstration. Among other things, the Commission has not examined whether or to what extent rates would increase if support were withdrawn or reduced—much less whether any such increases would be unaffordable—despite the dramatic changes in the marketplace in recent years, including new revenue streams available to ETCs in a marketplace increasingly dominated by bundled service offerings.

---

3 *See High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Recommended Decision, 22 FCC Rcd 8998, at ¶¶ 1, 4 (2007).

4 *Alenco Communications v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000).

5 General Accountability Office, *FCC Needs to Improve Performance Management and Strengthen Oversight of the High-Cost Program* (June 2008), *available at* http://www.gao.gov/new.items/d08633.pdf ("GAO Report").

6 *See, e.g.*, Comments of Time Warner Cable Inc.— NBP Notice # 19, GN Docket Nos. 09-47, 09-51, and 09-137 (Dec. 7, 2009).

In order to address these issues, the Commission should independently assess the need for continued high-cost funding. NCTA's proposal would serve this purpose by creating procedures through which the Commission could examine actual market conditions in order to assess the need for continued support for particular LEC costs. Among other things, these procedures would examine the state of facilities-based competition to assess whether subsidization is truly necessary to sustain the provision of service to local markets, and to "identify the limited subset of ILEC costs that (1) would not be incurred but for the provision of service to customers that do not have a competitive option and (2) cannot be recovered through rates for the services (regulated and unregulated) provided over the network in the portion of the study area with no competition."[7]

Among other notable benefits, the resulting reduction in expenditures on high-cost support would free resources that could then be redirected for other uses. For example, the Commission currently is considering potential mechanisms through which it might support broadband services.[8] TWC believes that, as a bedrock principle of such reform, any new high-cost support for broadband services should be accompanied by corresponding reductions in high-cost support for traditional voice services. The implementation of NCTA's proposal would be consistent with this principle, and would facilitate the funding of a new broadband support mechanism without the need to increase the overall size of the USF.

---

7 Petition at 17.

8 *See, e.g., Public Notice: Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, DA 09-2419 (Nov. 13, 2009).

CONCLUSION

For the foregoing reasons, TWC urges the Commission to grant the Petition for Rulemaking filed by NCTA and to implement its proposals expeditiously.

.

Respectfully submitted,

TIME WARNER CABLE INC.

By: /s/ Matthew A. Brill
Matthew A. Brill
Jarrett S. Taubman
LATHAM & WATKINS LLP
555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304

Steven N. Teplitz
Terri B. Natoli
TIME WARNER CABLE INC.
901 F Street, N.W., Suite 800
Washington, D.C. 20004

January 7, 2010