Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

PETITION FOR RULEMAKING:	)	
REDUCING UNIVERSAL SERVICE	)	GN Docket No. 09-51
SUPPORT IN GEOGRAPHIC AREAS	)	WC Docket No. 05-337
THAT ARE EXPERIENCING	)	
UNSUPPORTED FACILITIES-BASED	)	RM-11584
COMPETITION	)	

COMMENTS OF THE

INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

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SUMMARY

ITTA supports reform of the Universal Service Fund (USF) system in order to ensure continued fulfillment of statutory mandates to provide access throughout the Nation to services that are reasonably comparable to those available in urban areas, and at reasonably comparable rates. By contrast, the NCTA proposal would introduce inefficiencies and result in potentially damaging reductions of USF support in rural areas. The petition ignores the actual causes of USF growth, the manner in which rural networks are built, the conditions under which rural carriers operate, and the critical role of carriers-of-last-resort.

The NCTA proposal should be rejected for three reasons:

1. The petition purports to address USF growth, but it does not address the real cause of either contribution factor or overall Fund growth; rather, it targets USF beneficiaries that have not only played a vital role in building the Nation's communications networks, but whose funding has remained flat or decreased for nearly a decade.

2. The proposed reallocations do not account appropriately for the manner in which rural networks are constructed, and would threaten the viability of carriers of last resort serving rural areas at a time when those networks and carriers will play critical roles in National broadband deployment.

3. The changes proposed by the petition would generate costly and burdensome administrative adjudications that would create risk and uncertainty.

Accordingly, while ITTA generally welcomes proposals intended to ensure the provision of "specific, predictable and sufficient" USF support in areas that need it most, it respectfully opposes the NCTA petition.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

PETITION FOR RULEMAKING: REDUCING UNIVERSAL SERVICE SUPPORT IN GEOGRAPHIC AREAS THAT ARE EXPERIENCING UNSUPPORTED FACILITIES-BASED COMPETITION	))))))	**GN Docket No. 09-51** **WC Docket No. 05-337** **RM-11584**

COMMENTS OF THE

INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE

I. INTRODUCTION

The Independent Telephone & Telecommunications Alliance (ITTA) hereby submits these comments in response to the Petition for Rulemaking of the National Cable & Telecommunications Association (NCTA).[1] ITTA is an alliance of mid-size telephone companies that collectively serve approximately 24 million access lines in 44 states, and offer subscribers a broad range of high-quality wireline and wireless voice, data, Internet, and video services.

ITTA supports reform of the Universal Service Fund (USF) system in order to ensure continued fulfillment of statutory mandates to provide access throughout the Nation to services that are reasonably comparable to those available in urban areas, and at reasonably comparable rates. Accordingly, ITTA filed with the Commission a USF proposal that would reduce inefficiencies while assuring sufficient support for high-cost

[1] *Petition of the National Cable Telecommunications Association for Rulemaking Reducing Universal Service Support in Geographic Areas that are Experiencing Unsupported Facilities-Based Competition,* GN Docket No. 09-51, WC Docket No. 05-337, and RM-11584 (Nov. 5, 2009).

areas that need it most.[2] By contrast, the NCTA proposal would introduce inefficiencies and result in potentially damaging reductions of USF support in rural areas. The petition proposes that growth in the USF can be stemmed by reducing disbursements in areas where competitive wireline voice service is available from entities that do not receive USF, or where other alleged indicia of competition exist.[3] Although these recommendations may be facially attractive, they ignore the actual causes of USF growth, the manner in which rural networks are built, the conditions under which rural carriers operate, and the critical role of carriers-of-last-resort (COLRs). The proposal, if promulgated, would place networks serving rural America at risk and would conflict with the Commission's universal service and advanced services mandates as ordered by Congress in Sections 254 and 706 of the Telecommunications Act of 1996.[4]

The NCTA proposal should be rejected for three reasons:

> 1. The petition purports to address USF growth, but it does not address the real cause of either contribution factor or overall Fund growth; rather, it targets USF beneficiaries that have not only played a vital role in building the Nation's communications networks, but whose funding has remained flat or decreased for nearly a decade.
>
> 2. The proposed reallocations do not account appropriately for the manner in which rural networks are constructed, and would threaten the viability of carriers

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[2] *Federal-State Board on Universal Service: Ex Parte of Independent Telephone & Telecommunications Alliance,* CC Docket No. 96-45, WC Docket No. 05-337, at 1 (Oct. 10, 2008). The ITTA proposal focused on price-cap carriers.

[3] Petition at 5.

[4] The Telecommunications Act of 1996, P.L. 104-104, 100 Stat. 56 (1996) (1996 Act) amended the Communications Act of 1934 (1934 Act). In these comments, references to the 1934 Act as amended by the 1996 Act will be to "the Act;" references to sections of the Act will be to the Act as it is codified in the United States Code. Specific reference to the 1996 Act will be made where appropriate.

of last resort serving rural areas at a time when those networks and carriers will play critical roles in National broadband deployment.

3. The changes proposed by the petition would generate costly and burdensome administrative adjudications that would create risk and uncertainty.

Accordingly, while ITTA generally welcomes proposals intended to ensure the provision of "specific, predictable and sufficient"[5] USF support in areas that need it most, it respectfully opposes the NCTA petition for the reasons set forth below.

II. DISCUSSION

A. UNIVERSAL SERVICE REFORM MUST ACCOMMODATE THE NEEDS OF CONSUMERS AND NETWORK REQUIREMENTS IN RURAL AREAS

Universal service policy is rooted in the mandate that

> [c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.[6]

USF mechanisms are necessary in order to ensure that network operators in high cost areas can deploy networks necessary to meet statutory mandates. The existing Federal regulatory framework has generally functioned well for many rural incumbent local exchange carriers (ILECs) to ensure that reasonable rates can be maintained for consumers in areas with high costs and low population density (ITTA has proposed for price-cap carriers a USF approach that refines current mechanisms to more effectively

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[5] 47 U.S.C. § 254(b)(5).

[6] 47 U.S.C. § 254(b)(3).

target support to the areas where it is needed most).[7] And, the current high-cost program is replete with "checks" and mechanisms, including the ability of NECA and state commissions to audit ILEC USF recipients, to ensure that these programs that have fostered network deployment in rural areas are administered lawfully, Overall, carriers have complied: a recent Universal Service Administrative Company (USAC) report determined that 97.26 percent of high-cost disbursements were made properly.[8] This USAC Report debunked earlier Office of Inspector General (OIG) findings of a 16.56 percent erroneous payment rate, determining instead an improper payment rate of 2.74 percent.[9] The OIG acknowledged this discrepancy in its most recent report to Congress, stating, "Although this office is still evaluating the USAC High Cost Report, it appears clear that the erroneous payment rate set forth in the initial OIG Report is too high at a statistically significant level."[10] In addition to the many regulatory safeguards, many mid-sized carriers such as ITTA members are publicly-traded companies that are subject

[7] *See, Federal-State Board on Universal Service: Ex Parte of Independent Telephone & Telecommunications Alliance,* CC Docket No. 96-45, WC Docket No. 05-337, at 1 (Oct. 10, 2008); *see generally, also, Federal-State Joint Board on Universal Service; High-Cost Universal Service Support: Comments of the Independent Telephone & Telecommunications Alliance,* CC Docket No. 96-45, WC Docket No. 05-337 (May 8, 2009).

[8] Universal Service Administrative Company Final Report and Statistical Analysis of the 2006-07 Federal Communications Commission Office of Inspector General High-Cost Beneficiary Audits, at 6 (Sep. 10, 2009) (USAC Report).

[9] This contemplates a margin of error of 2.8 percent at the 90 percent confidence level. *Id.,* internal citation omitted.

[10] "Semiannual Report to Congress: April 1, 2009, through September 30, 2009, Federal Communications Commission, Office of the Inspector General, at 20 (Oct. 30, 2009).

to the rigorous standards of Sarbanes-Oxley,[11] as well as comprehensive internal audits demanded by Wall Street and investors. These existing safeguards offer numerous layers of operational efficiencies to ensure that USF is distributed appropriately. The sharp reductions in support proposed by the petition, however, would address neither growth nor malfeasance, but would rather place at risk networks that are vital to the Nation's communications infrastructure.

B. THE PETITION'S FOCUS ON ILECS IS MISPLACED BECAUSE ILECS ARE NOT THE SOURCE OF USF GROWTH

NCTA proposes that its petition is intended to address growth in the contribution factor and overall USF. Unfortunately, the proposal does not address the actual causes of USF growth or contribution factor increases. Rather, it focuses erroneously on support to ILECs, whose collective high-cost support has either held steady or decreased during the past decade. By contrast, the contribution factor has increased due to other causes, including growth in other programs and market changes that are causing rapid deterioration in the interstate end-user revenue base to which the factor is applied.

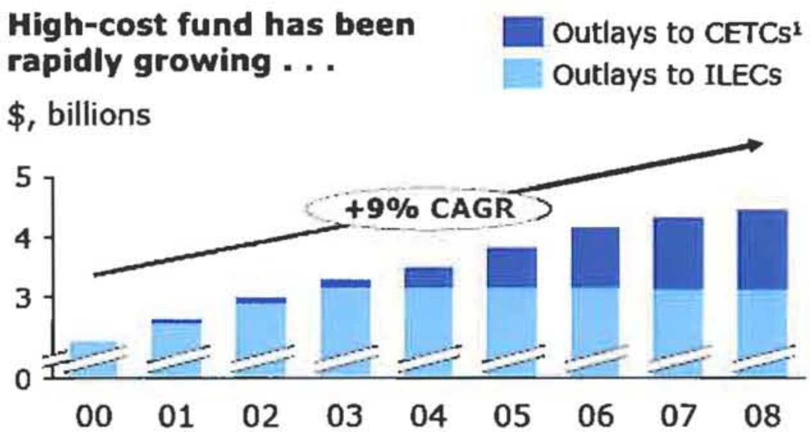
The study submitted with the petition, *Universal Service Subsidies to Areas Served by Cable Telephony*[12] demonstrates that from 2000 – 2008, funding for schools and libraries, rural health care, and low income programs increased.[13] Funding for high-cost support increased during that period, as well, but growth in the high-cost fund is not

[11] Public Company Accountability Reform and Investor Protection Act of 2002, Pub. L. 107-204, 116 Stat. 745 (2002) (Sarbanes-Oxley).

[12] Jeffrey A. Eisenach, *Universal Service Subsidies to Areas Served by Cable Telephony* (November 2009) (Eisenach).

[13] Eisenach at 7, Figure 1.

attributable to ILECs; rather, it was occasioned by rapidly escalating support tendered to competitive eligible telecommunications carriers (CETCs). The Federal-State Joint Board on Universal Service recognized this phenomenon in 2007, stating, "[s]upport to most if not all RLECs has been flat or has even declined since 2003."[14] And, the Commission's Omnibus Broadband Initiative team recognized this fact in 2009, illustrating Fund growth caused by support to CETCs:



Source: Presentation of the Omnibus Broadband Initiative team to the Federal Communications Commission, at slide 48 (Sep. 29, 2009) (http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-293742A1.pdf) (last viewed Dec. 23, 2009, 9:37)).

Accordingly, the petition's aims to control Fund size by disrupting support to ILECs are misplaced, as they target the only entities whose support levels have not increased over the past eight years. Turning the reformatory cannon against ILECs is counter-productive – it does not resolve existing problems, but only paves the way for new ones.

ITTA has stated previously that successful reform relies upon reaffirming the purpose and goals of the USF, identifying flawed outcomes, and refining mechanisms to

[14] *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service: Recommended Decision,* WC Docket No. 05-337, CC Docket No. 96-45, FCC 07J-4, at para. 39 (2007) (internal citation omitted).

ensure that all aspects of the USF can foster achievements as successful as those being realized by ILECs. As described below, the instant petition does not augur favorable outcomes, and should be rejected.

C. THE PETITION DOES NOT CONTEMPLATE THE MANNER IN WHICH RURAL NETWORKS ARE CONSTRUCUTED AND OPERATED

1. The Proposal Would Drastically Reduce Necessary Support

The NCTA petition proposes alternative scenarios in which parties can request the Commission to reassess the amount of support provided to an incumbent carrier. A reassessment could be requested if (a) competitive wireline service is available to 50 to 75 percent of the households in a study area,[15] or (b) where an ILEC has been granted rate deregulation.[16] In either scenario, the petition envisions a Commission proceeding to determine the amount of support necessary to address

> 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 services (regulated and unregulated) provided over the network in the portion of the study area with no competition.[17]

Those narrow parameters, however, do not provide adequate recovery of rural network costs in a manner consistent with universal service principles mandating comparable rates and services.

The petition claims that its approach

> starts from the premise that the costs of operating in a portion of the study area served by an unsupported provider should not be subsidized at all . . .

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[15] Petition at 12, 13

[16] Petition at 14.

[17] Petition at 17.

> and that the subsidy, if any, should be limited to those additional ILEC costs that are solely attributable to bringing service to the non-competitive portion of the study area and cannot be recovered through those services.[18]

The hazard of this proposal is that it proscribes support for facilities that underlie the entire network, including those used to serve customers in the most remote areas. ILEC networks are built in a manner that enables the carrier to meet its COLR obligations throughout the entire study area. Under the NCTA proposal, however, a carrier would not be able to seek USF support for switches, equipment, overhead, or other expenses that support consumers in both the competitive and non-competitive areas. The only part of the network that would apparently be eligible for recovery is the actual loop running to the outlying subscriber. This outcome must be avoided, as cost-recovery for major expenses through USF would be proscribed and substantial burdens would be foisted upon consumers, who would then suffer the effects of either diminished network investment or increased rates.

Although ITTA has promoted "targeted" USF support for price cap carriers, those recommendations have focused on transitioning from statewide averaging to wire center averaging.[19] That approach is very different from the pulverization of costs proposed by the petition. The history of universal service policies has relied in part upon some averaging of rates across a community of users in order to balance the equities of

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[18] Petition at 17, 18.

[19] *See, Federal-State Board on Universal Service: Ex Parte of Independent Telephone & Telecommunications Alliance,* CC Docket No. 96-45, WC Docket No. 05-337, at 1 (Oct. 10, 2008); *see generally, also, Federal-State Joint Board on Universal Service; High-Cost Universal Service Support: Comments of the Independent Telephone & Telecommunications Alliance,* CC Docket No. 96-45, WC Docket No. 05-337 (May 8, 2009).

recovering costs for a ubiquitous telephone network. Explicit USF support is injected in areas where normative economic forces are insufficient to support market participation. While the NCTA proposal acknowledges the need to ensure support to high-cost areas, the proposed manifestation of that acknowledgment would actually diminish the prospect of adequate support for high-cost areas, since it would exclude nearly every element of a network from cost recovery.

Data indicates the wide spread of costs among city centers, where competition frequently occurs, and high-cost outlying areas, which are often served as a function of COLR obligations. In a recent *ex parte* presentation to the Commission, CenturyLink demonstrated that in one wire center, investment per line in the densely populated city center was $1,308, while in the outlying area outside the city center, investment per line was $6,208.[20] The NCTA proposal would not enable sufficient USF recovery of the high cost per outlying line, since it proposes to eliminate from USF eligibility recovery for any costs arising out of facilities used to provide services in both so-called competitive and non-competitive areas. Those costs, instead, would be transferred onto customers, resulting in substantial rate increases throughout the study area, and likely violating the statutory mandate to provide services at "reasonably comparable" rates.[21]

ITTA generally supports regulations based on market forces, but the scenarios contemplated by the NCTA proposal are untenable because they are proposed for areas where self-sustaining market forces do not exist; in those areas, adequate service would

[20] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Federal-State Joint Board on Universal Service: Ex Parte Notice of Century Link,* WC Docket No. 05-337, CC Docket No. 96-45, Attachment at 6 (Dec. 15, 2009).

[21] 47 U.S.C. § 254(b)(3).

not be available absent supplemental support. The petition's proposals might make sense if all carriers involved in the equation had equivalent obligations -- ILECs, however, are COLRs that are obligated to serve the entire study area, and build their networks to match those obligations. Inasmuch as the petition envisions dramatic support reductions in study areas where the competitive provider may offer service to only 50 percent of the market, the resultant failure of an ILEC forced to price itself out of the market could leave half the market without access to wireline service of any kind. And, where the COLR would survive, steep reductions in USF support would have a serious detrimental impact on carriers' abilities to maintain or upgrade their networks. Either result is untenable.

2. The Proposal Confuses Rate Flexibility with COLR Deregulation

The proposal attempts improperly to link reductions in USF support to state rate deregulation or other instances in which local service is offered at a non-regulated rate. This approach, however, misrepresents the limited scope of those rate-related deregulations. There are many reasons why a state may permit pricing flexibility or bundling. Although these practices may enable carriers to meet competitive pressures by enabling flexibility at pricing margins, they often do not relieve carriers of their COLR obligations. In fact, ITTA member experience indicates that in many of the agreements between state commissions and the ILECs, a *quid pro quo* for rate flexibility is some type of additional infrastructure build-out commitment. Stated simply, rate deregulation does not absolve carriers of COLR obligations.

By way of example, the petition notes that the local rates of AT&T in Mississippi were "substantially deregulated since 2006."[22] But, Mississippi state code also allows the state commission to "require every public utility to establish, construct, maintain and operate any reasonable extension of its existing facilities . . ."[23] Similarly, while the petition notes, "[t]he Indiana Utilities Regulatory Commission lost its ratemaking authority earlier this year,"[24] the Indiana code stipulates, "[e]very public utility is required to furnish reasonably adequate service and facilities,"[25] and addresses specifically the "[p]rovider of last resort," defining that as the provider that is "required to offer local exchange service throughout a defined geographic area."[26] Likewise, the petition relies upon rate deregulation in Alabama,[27] but that state maintains an obligation for carriers to "provide, upon reasonable request, basic telephone service to the premises of a permanent residence or business within its franchised service territory."[28] Moreover,

[22] Petition at 15, *citing High-Cost Universal Service Support; Federal-State Joint Board on Universal Service: Comments of the Mississippi Cable Telecommunications Association,* WC Docket No. 05-337, CC Docket No. 96-45, at 2, 3, (Jun. 9, 2009), and Miss. Code Ann. § 77-3-35(4)(a).

[23] Miss. Code § 77-3-29. The Mississippi code also recognizes instances in which provision of service can be cost-prohibitive. "[I]ncumbent local exchange carrier to provide primary single-line flat rate voice communications service to premises of permanent residence or business within its franchised service territory if cost to requesting party does not exceed certain amount." Miss. Code § 77-3-35.

[24] Petition at 15, *citing* Indiana Code IC 8-1-2.6-13.

[25] IC 8-1-2-4.

[26] IC 8-1-32.4-9.

[27] Petition at 15, *citing* Ala. Code 1975 § 37-2A-8(b)(1)(c).

[28] Ala. Code 1975 § 37-2A-8(a)(1).

the Alabama code recognizes financial constraints and the need for supplemental support, clarifying that "[i]f the cost exceeds eight thousand dollars ($8,000) . . . an incumbent local exchange carrier may not deny service on the basis of cost so long as sufficient funds to provide that service are available from the Alabama portion of the applicable federal universal service fund program."[29] The petition also notes rate flexibility in Virginia and Texas,[30] but each of those states maintains regulations requiring provision of service.[31] In sum, pricing flexibility does not necessarily equate to relief from COLR or other obligations, and the petition based upon that flawed premise should be rejected.

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[29] *Id.* The entire section reads:

> Provision of basic telephone service and optional telephone features.
>
> (a)(1) An incumbent local exchange carrier shall provide, upon reasonable request, basic telephone service to the premises of a permanent residence or business within its franchised service territory, if the costs, including, but not limited to costs of facilities, rights-of-way, and equipment, of providing basic telephone service to the requesting party does not exceed eight thousand dollars ($8,000).
>
> (2) If the cost exceeds eight thousand dollars ($8,000), as provided in subdivision (1), an incumbent local exchange carrier may not deny service on the basis of cost so long as sufficient funds to provide that service are available from the Alabama portion of the applicable federal universal service fund program.

[30] Petition at 16, *citing* Va. Code § 56-235.5I and Tex. Util. Cod. Ann. 26.134, 26.211, and 26.230, respectively.

[31] *See* Va. Code § 56-478.1:

> Requiring extension of telephone facilities into rural areas.
>
> If, from any rural territory not now being served, application be made to the Commission by a group of ten or more persons, natural or artificial, to require an extension of telephone service to such territory, the Commission shall, if necessary to accomplish the purposes sought, fix a time for hearing said application on such terms and conditions as the

COLR obligations are necessary because they substitute for natural market forces that would otherwise discourage market participation by providers. These obligations are the corollary of USF support. Accordingly, absent support, there cannot be COLR obligations; and, absent COLR obligations, consumers in high-cost areas are at great risk of losing access to vital services.

Carriers rely on existing support mechanisms to deploy, maintain, and upgrade networks. While ITTA has called upon the Commission to correct insufficient support occasioned by statewide averaging, the solution proposed by NCTA would not result in adequate support to truly high-cost areas. The NCTA proposal would result in

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> Commission may prescribe and, if it be established to the satisfaction of the Commission, that a proper guaranteed revenue will accrue to any company which may be required to extend such services to such territory, then the Commission is hereby authorized and empowered to require the telephone company located nearest, or most advantageous to, such territory to construct such extension to such point or points in such territory and to furnish adequate telephone facilities and conveniences to such customer or customers therein as in its judgment is right and proper.

See, also, Tex. Sec. 55.007:

> MINIMUM SERVICES. (a) The commission shall require a holder of a certificate of convenience and necessity or a certificate of operating authority to provide at the applicable tariff rate, if any, to each customer, regardless of race, national origin, income, or residence in an urban or rural area:
>
> (1) single-party service;
> (2) tone-dialing service;
> (3) basic custom calling features;
> (4) equal access for an interLATA interexchange carrier on a bona fide request; and
> (5) digital switching capability in an exchange on customer request, provided by a digital switch in the exchange or by connection to a digital switch in another exchange. . .
>
> (c) The commission may temporarily waive a requirement imposed by Subsection (a) or (b) on a showing of good cause.

significantly higher costs for consumers. Implementation of the proposal would disrupt an approach that has generally served rural America and its consumers well; at the cusp of a broadband era there is particularly no justification to impose a model that cures no ills, but may likely cause them.

3. The Viability of the COLR is Critical to Current and Future Network Needs

COLRs serve a critical role in National networks; the Commission must not adopt a myopic view of the total network. The networks of carriers serving rural areas interconnect with larger National networks, and offer critical "carrier-to-carrier" services, including special access and tandem transit that, ironically, are necessary for competitive carriers. The Alaska Telephone Association characterized well the role that incumbent wireline providers fill:

> It is the providers or carriers of last resort that supply the backbone network of the country's public switched telephone system, on which competitive carriers typically rely for backhaul and interconnection. Indeed, the POLR's fundamentally represent the essence of universal service as it is their obligation to deploy and maintain service to subscribers in all communities located within the boundaries of their certificated service areas, no matter how remote or difficult to access.[32]

Ultimately, risk to the COLR is a risk that affects the entire interconnected network; it is the corollary of identified values that underlie support for a universally connected system. The threat occasioned by possible failure of a COLR was recognized by the chair of the Hawaii Public Service Commission when Hawaii Telecom entered bankruptcy:

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[32] *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service: Consolidated Comments of the Alaska Telephone Association*, WC Docket No. 05-337, CC Docket No. 96-45, at 7, 8 (Apr. 17, 2008).

> While numerous competitors have entered the telecommunications market in the state, [Hawaiian Telecom's] facilities and services remain necessary for competitive carriers to continue to provide telecommunications services within the state. Without the ability to interconnect to Hawaiian Telecom's facilities and purchase its services, these competitors would need to recreate the company's existing infrastructure, or large portions of it, at great expense, to continue to provide services to their customers.[33]

The high costs borne of COLR obligations are not mere rhetoric. It has been established that rural carriers lack economies of scale and therefore have high loop costs: the Commission has recognized these challenges, noting, "a lower population density generally indicates a higher cost area,"[34] and the Government Accountability Office (GAO) found that "[t]he most frequently cited cost factor affecting broadband deployment was the population density of a market," and that "the cost of building a broadband infrastructure in areas where people live farther apart is much higher than building infrastructure to serve the same number of people in a more urban setting."[35] Carriers serving remote areas are also subject to high costs incurred when moving equipment and personnel to remote locations, and frequently require back-up equipment for isolated areas. COLRs serving rural areas have facilities sized to meet demands of

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[33] Peter Bluhm and Phyllis Brent, "Carriers of Last Resort: Updating a Traditional Doctrine," National Regulatory Research Institute, at 45, 46 (Jul. 2009), *quoting* statement of Hawaii Public Utilities Commission Chairman Carlito Caliboso to U.S. Bankruptcy Court for the District of Hawaii (Jan. 8, 2009).

[34] *Federal-State Joint Board on Universal Service; North Carolina RSA 3 Cellular Telephone Company; Petition for Designation as an Eligible Telecommunications Carrier in the State of North Carolina: Order*, CC Docket No. 96-45, DA 06-1628, 21 FCC Rcd 9151, at para. 23 (2006).

[35] GAO, *Broadband Deployment Is Extensive throughout the United States, But it is Difficult to Assess the Extent of Deployment Gaps in Rural Areas,* at 19 (May 2006) ("*GAO Report*").

entire network, and obtain cost recovery on basis of all of those facilities. By contrast, a competitor need only achieve recovery for its discretionarily localized costs for the fewer lines it might serve. Rural Task Force reports described the challenges aptly:

> Operationally, isolation increases costs since more resources are required to produce the self-reliance necessary to provide any level of network reliability. This demand on self-reliance may range from increased levels of back-up power, larger fuel tanks, larger inventories of materials and spares, and even increases in manpower to respond timely to emergencies. Insular and remote service conditions may also require expenditures because of the poor regional infrastructure often associated with those areas.[36]

A rural COLR incurs costs consistent with its mandated obligations. In any given service area, a COLR it is required to construct and maintain a network capable of serving the entire service areas, whereas a competitor offering service to only 50 percent of the households in an area may size its network, by choice, to meet the needs of only half that area. The Commission must avoid measures that would eliminate USF support for joint-use facilities and jeopardize high-cost COLR networks.

D. THE PROPOSAL WOULD CREATE AN ADMINISTRATIVE MORASS AND THREATEN ACCESS TO NECESSARY CAPITAL

The proposal threatens an administrative morass of case-by-case adjudications, competition studies, and consequent individualized cost studies, all of which arrive with the threat of litigation as carriers and petitioners become mired in costly fact-finding exercises. The effects of those threats, however, are not visited only on individual carriers, and only at the conclusion of a particular proceeding. Rather, the proposal would likely have a devastating ripple effect on all carriers seeking access to capital, as

[36] *Federal-State Joint Board on Universal Service: Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Appendix B, "The Rural Difference," at 28 (rel. Sep. 29, 2000).

the uncertainty surrounding their continued access to necessary USF would discourage lenders from extending credit. In a presentation to the Commission last month, CoBank warned that, over the past ten years, it has lowered its rural LECs' access to capital by a staggering 30 – 40 percent "due to the uncertainty about the sustainability of current cost recovery mechanisms."[37] CoBank explained further that it has

> rejected funding requests for large scale broadband projects unless the borrower was willing to modify their request to complete the project in smaller pieces, over a longer period of time in order for us to keep our debt commitments at a level commensurate with the increased chance that regulatory reform would make it impossible to recover all costs of investment and repay our loans pursuant to the contract terms.

ITTA does not discourage regulatory reform, but emphasizes that reform must bring about change for the better, rather than change for only change's sake. Change that risks cost recovery for rural carriers will risk access to capital, leaving carriers serving rural America without the resources necessary to deploy and maintain networks.

[37] *A National Broadband Plan for Our Future; High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Developing a Unified Intercarrier Compensation Regime: Ex Parte Notice of CoBank,* GN Docket No. 09-51, WC Docket No. 05-337, CC Docket Nos. 96-45 and 01-92, (Dec. 16, 2009).

III. CONCLUSION

ITTA supports reform of the Universal Service Fund (USF) system in order to ensure continued fulfillment of statutory mandates to provide access to services throughout the Nation. By contrast, the NCTA proposal would likely result in potentially damaging reductions of USF support for rural areas and introduce burdensome administrative inefficiencies. For these reasons as set forth above, ITTA respectfully recommends the Commission to reject the petition.

Respectfully submitted,

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