

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Reducing Universal Service Support In Geographic Areas That Are Experiencing Unsupported Facilities-Based 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 Charter Communications, Inc.

Charter Communications, Inc. submits the following comments in support of the petition for rulemaking filed in this proceeding by the National Cable & Telecommunications Association (NCTA). Charter has previously demonstrated that the change proposed by NCTA is a necessary and integral part of universal service reform and the National Broadband Plan,¹ and it urges the Commission to act quickly to issue a notice of proposed rulemaking adopting a tentative conclusion that high-cost support will not be provided in areas served by an unsubsidized competitor.

I. The Commission Should Tentatively Conclude that High-Cost Support Will Not be Provided in Areas Served by Unsubsidized Competitors

When the federal Universal Service Fund was created in 1996, there was no obvious way for the Commission to determine whether an area could economically be served by unsubsidized competitors because facilities-based local telephone competition generally did not yet exist. Thus, the Commission had to invent a temporary proxy to guess where subsidies were needed,

¹ See Docket 09-51, Letter from Megan M. Delany, Charter Communications, to Marlene H. Dortch, FCC (Sept. 16, 2009) (attaching “Reforming the Universal Service Fund to Ensure Universal Broadband Availability”), and Comments of Charter Communications, Inc. on NBP Public Notice #19 (Dec. 7, 2009) at 1-5.

for example by providing subsidies to areas with loop costs significantly higher than the national average. However, the Commission no longer needs to guess whether unsubsidized, affordable service is theoretically viable; instead, it can simply observe where such competition exists. This approach was not available in 1996, but is obviously a more accurate indicator, now that it is.

With the contribution rate at over 14% and calls for new universal service support for broadband, it is essential, as Chairman Genachowski recently implored, that “we have to find a way to reform universal service in a way that wrings out efficiencies, that saves money, and that doesn’t increase the burden on consumers.”² Charter now offers ubiquitous telephone service without any subsidy in many areas where other carriers are receiving high-cost support.³ There is no more obvious way to effect the Chairman’s directive than to eliminate high-cost support in the markets where it is unnecessary. The presence of actual unsubsidized competitors shows that service is possible in an area without a USF subsidy. If an unsubsidized provider can offer service, so too can the ETC by making timely changes in its choice of technology, pricing, and other arrangements. If the Commission is providing service to multiple ETCs in an area that has an unsubsidized provider, that means that even more money is being spent unnecessarily.

Therefore, the Commission should act quickly to issue a notice of proposed rulemaking adopting a tentative conclusion that high-cost support should not be paid in areas served by an unsubsidized competitor.

II. The Commission Should Use Small, Neutral Geographic Areas to Measure the Necessity of Support

To maximize efficiency and consumer savings, the Commission should test the necessity of high-cost support on a granular geographic basis, rather than by entire study area. Study areas

² Interview with C-SPAN “The Communicators,” aired Nov. 21, 2009.

³ See e.g., NCTA Petition, Empiris LLC Study at 25-27.

can cover vast distances with varying terrain, economics, and demographics, and it makes no sense to continue to fund ETCs for an entire study area that is partly served by unsubsidized competitors. Instead, support should be reserved for the portions of the study area that are not so served. Measuring by smaller areas would better enable the Commission to pinpoint the precise areas where support is needed to assure universal broadband.

Because the Commission's universal service rules should be competitively neutral, Charter supports the use of an impartial geographic unit such as Census Blocks or Census Tracts. However, the most important objective is to move toward the use of smaller geographic areas, even if that means the use of wire center serving areas that are based on ILEC networks.

III. The Commission Should Not Provide Support for Wire Center or Census Areas to Carriers that Have Previously Provided Service without Support.

If the Commission does use smaller geographic units to measure whether high-cost support is necessary, as described above, it should not allow that change to become a backdoor that is used to provide new funding to areas where actual deployment shows that new subsidies are not needed. The rules should not permit any carrier to receive new funding for the first time for already-existing investments as a result of the change in geographic measurement. For example, there are areas today where the incumbent LEC could qualify for high-cost support for certain wire center or census block areas if those areas were its entire study area, but does not qualify because the study area as a whole includes lower-cost areas. If the ILEC has nonetheless already deployed service to the area, it should not now receive an unnecessary windfall in new high-cost support. On the other hand, if no service provider is offering service in the area, then it is reasonable to conclude that the prior USF rules that foreclosed funding may have been a barrier to investment. In that case, the area could be eligible for new funding.

IV. Implementation Issues

In an NPRM, the Commission should seek comment on the process for implementing NCTA's proposed rule. Because the savings to be generated from this reform is urgently needed to fund the Commission's broadband priorities, the Commission should adopt measures to effectuate these changes as soon as possible. The process could be expedited by creating an automatic 30-day response and comment window triggered by the posting of the challenge on the Commission's electronic filing system, rather than deferring the comment window until issuance of a manual public notice for each case. The Commission should also require itself to act on such challenges within 180 days.

Respectfully submitted,

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