

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

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	

**COMMENTS OF CENTURYLINK, CONSOLIDATED COMMUNICATIONS,  
FRONTIER COMMUNICATIONS, IOWA TELECOMMUNICATIONS, AND  
WINDSTREAM COMMUNICATIONS ON THE FURTHER NOTICE OF PROPOSED  
RULEMAKING REGARDING THE TENTH CIRCUIT REMAND**

Five mid-sized incumbent local exchange carriers—CenturyLink, Consolidated Communications, Frontier Communications, Iowa Telecom, and Windstream Communications (collectively, the “mid-sized ILECs”)—submit these comments in response to the Further Notice of Proposed Rulemaking (“FNPRM”) on how the Federal Communications Commission (“Commission”) should respond to the decision of the United States Court of Appeals for the Tenth Circuit (“Tenth Circuit”) in *Qwest Communications International, Inc. v. FCC*.<sup>1</sup> Specifically these remarks focus on the request for comment on whether the Commission should make “interim adjustments . . . to the non-rural mechanism that could be implemented quickly . . . .”<sup>2</sup>

The mid-sized ILECs urge the Commission to use this remand proceeding as an opportunity to adopt the Broadband Now Plan. The Broadband Now Plan, which was proposed by the mid-sized ILECs on December 7, 2009 and is submitted with this filing, offers a framework of reforms that would make quick progress on deploying extensive broadband

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<sup>1</sup> *Qwest Communications Int’l, Inc. v. FCC*, 398 F.3d 1222 (10th Cir. 2005) (*Qwest II*).

<sup>2</sup> *High-Cost Universal Service Support*, WC Docket No. 05-337, Further Notice of Proposed Rulemaking, 24 FCC Rcd 14858, 14869 ¶ 27 (“FNPRM”).

networks at speeds of 6 megabits per second (Mbps) or higher, while embarking on the longer and more difficult journey to further modernize the universal service and intercarrier compensation systems. In the short run, the Broadband Now Plan would promptly adjust the non-rural high-cost mechanism to distribute support on a more targeted basis to only truly high-cost areas. It also would dedicate any incremental universal service funding exclusively to expanding broadband Internet access. With these public funds and matching private investment, we estimate the Broadband Now Plan could deliver broadband service at speeds of 6 Mbps to approximately 95% of the voice connections of the signatory mid-sized ILECs within a span of just 5 years.<sup>3</sup>

While some would argue the Commission should first create new broadband-based policy and rules from whole cloth, such extensive reform would require new rounds of notice and comment, resulting in a substantial delay in transitioning the Universal Service Fund from a mainly voice-oriented model to one that can support both broadband and voice. The Commission is not limited to such a binary choice. Rather, the Broadband Now Plan shows it is possible for the Commission to adopt interim reforms that produce substantial public benefits in the near term, while paving the way for even more fundamental reforms in the future.

**A. The Broadband Now Plan Would Better Fulfill the Purpose of Section 254 and Advance the Public Interest by Facilitating Immediate Broadband Deployment in Areas Lacking Access to 6 Mbps Service.**

The Broadband Now Plan would achieve increased broadband deployment by using universal service funding in a more efficient and effective way. First, the Broadband Now Plan

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<sup>3</sup> This estimate is based on (a) the signatories' existing service territories as of December 7, 2009, and does not include any areas that might be acquired in any pending or future transactions since they may have different levels of existing broadband availability than the signatories' current operations; and (b) adoption of the Broadband Now Plan in its entirety.

would produce immediate progress on the unavoidable task of reforming the high-cost mechanism to target support to more granular, truly high-cost areas. The current system allocates funding based on average costs of broad study areas or whole states that typically encompass a mix of high-cost and lower-cost wire centers. This regime presumes that carriers will be able to implicitly subsidize costs in high-cost areas with costs from lower-cost areas. Competitive pressures, however, have reduced, if not altogether inhibited, carriers' ability to charge prices capable of producing implicit support that could be used for deploying broadband or voice services in high-cost areas. By failing to target support to the granular regions that need it most, the current state of affairs is inconsistent with section 254 of the Communications Act, which calls for support to ensure reasonably comparable telecommunications services are available virtually everywhere at reasonably comparable rates.<sup>4</sup> Reforms, therefore, must occur in short order.

In response to the need for immediate reform, the Broadband Now Plan would better target funds to truly high-cost areas by calculating price cap carriers' high-cost support on a more granular basis. The Broadband Now Plan would stop the practice of classifying an entire state as either eligible or non-eligible for support, based on statewide average costs. Support under the forward-looking mechanism, instead, would be based solely on the costs in individual wire centers, and price cap carriers receiving support under the rural mechanism would be able to make a one-time election to receive support under the revised forward-looking mechanism. These modest, transitional changes to distribution of high-cost funds will yield substantial public interest benefits, including allowing all customers dependent on carrier-of-last-resort service to

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<sup>4</sup> 47 U.S.C. § 254.

be supported similarly without regard to the manner in which their provider is regulated or what other areas it might serve.

By converting the high-cost methodology for price cap carriers to a more targeted methodology, the Broadband Now Plan would focus support on the granular areas with the lowest population densities, and correspondingly, the highest costs for telecommunications and broadband service. These are the same areas where broadband support will be essential to achieve ubiquitous deployment. With this reform, the Broadband Now Plan also will address the concerns raised by the National Cable Telecommunications Association in its recent proposal for rulemaking, because under the more targeted distribution of support, nearly all support would go to areas that are not served by cable operators.<sup>5</sup>

Second, the Broadband Now Plan would result in immediate deployment of fiber facilities needed to support both wireline and wireless broadband. To the extent carriers receive additional high-cost support under the Broadband Now Plan, carriers would use these funds to expand and enhance the second mile and middle mile infrastructure needed to enable both wireline and wireless providers to further deploy broadband to currently unserved areas. These funds may be used only in areas lacking access to 6 Mbps service. It is more efficient for multiple networks to share the same backhaul infrastructure in such areas that cannot economically support more than one deployment, and this deployment will provide the second mile transport capacity required by wireless providers as they increase their spectrum usage.

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<sup>5</sup> See, e.g., Comments of CenturyLink on the NCTA Petition, *High-Cost Universal Service Support*, WC Docket 05-337 (filed January 7, 2010); Comments of Windstream on the NCTA Petition, *High-Cost Universal Service Support*, WC Docket 05-337 (filed January 7, 2010).

Under the Broadband Now Plan, incremental high-cost support for broadband deployment would be leveraged by substantial private investment. Carriers that elect to receive the incremental support would be required to invest \$800 per household of their own funds to deploy broadband facilities to a household that is entirely unserved (and \$50 per household in areas with access to broadband at speeds less than 6 Mbps). In other words, a carrier would be required to invest \$800 of the amount needed to bring broadband to an unserved household in connection with its draw on incremental universal service funding. Carriers would receive incremental support until they completed deployment of 6 Mbps to 98 percent of their lines.

The Broadband Now Plan reforms would be accomplished in a competitively neutral fashion. Funds would flow to the carrier able to provide service at the lowest cost, thus ensuring that no more universal support than necessary was used to increase broadband support in an area. In particular, if a carrier other than the incumbent could demonstrate that its own costs of providing service would require less targeted support than would otherwise be needed based on the forward-looking model, that carrier would receive the lower amount of support in place of the incumbent, provided that the carrier agreed to assume exclusive carrier of last resort obligations for offering facilities-based voice service to all lines in the wire center. Moreover, that carrier—like any incumbent recipient of support—would have to use the incremental additional support for purposes of deploying broadband in areas that lack 6 Mbps service and meet the same private investment thresholds.

**B. If the Broadband Now Plan’s Interim Reforms are Adopted, It Would Be Easier for the Commission to Transition High-Cost Support to Focus on Areas Unserved or Underserved by Broadband.**

Adopting and implementing comprehensive reforms that will overhaul and reorient the focus of the high-cost support regime will take significant time. Such reforms will need to be preceded by various rulemakings, implementation of reasonable transition periods, and related steps. Although this regulatory activity is necessary, the Commission should not delay making *any* reforms now, while it seeks to execute *all* reforms required to fully refocus high-cost support on broadband. The Commission is right to ask whether there are “interim adjustments . . . to the non-rural mechanism . . . that could be implemented quickly . . . .”<sup>6</sup>

With interim measures proposed by the Broadband Now Plan, the Commission would significantly advance the transition to focus federal support more on broadband deployment in granular, high-cost areas. As explained in further detail above, the Broadband Now Plan’s interim measures would expedite much-needed improvements that would convert the current high-cost regime to one that awards support on a far more granular basis. The Broadband Now Plan also would launch new efforts to bring broadband to consumers residing in otherwise unserved and underserved areas. Such reforms, which may be based on the substantial record already produced in this proceeding, would significantly begin broadband expansion much sooner than waiting for comprehensive change to the high-cost system. In addition, tackling high-cost reforms in phases, as proposed by the Broadband Now Plan, would result in less marketplace disruption and uncertainty—factors that otherwise could discourage large, long-term private investments in broadband deployment and upgrades.

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<sup>6</sup> FNPRM at ¶ 27.

Adopting the interim reforms proposed by the Broadband Now Plan would not need to result in a substantial increase in the size of the high-cost fund. As the Broadband Now Plan explains, new support made available for broadband deployment could be offset by accompanying decreases in other forms of high-cost support. One example of how to decrease support would be for the Commission to follow through on its earlier tentative conclusion that access replacement support should not be paid to commercial mobile radio service providers.<sup>7</sup> Such near-term cost-saving measures could be reinforced by the Commission's moving quickly to adopt and implement contributions reform that increase the base of support.

**C. Although the Forward-Looking Model Needs to be Improved, the Commission Should Not Delay Other Reforms While It Engages In the Multi-Year Effort that will Be Required to Improve how the Forward-Looking Model Calculates Costs.**

The mid-sized ILECs agree that with the FNPRM's findings that the current non-rural model for calculating costs is outdated, and it will take a multi-year period to evaluate or develop an updated cost model and establish new input values.<sup>8</sup> In developing this updated model, the Commission must confront the challenging task of accounting for not only broadband costs, but also the continuing costs incurred to support voice services and the network investments already made by carriers. Entirely shifting existing support to new broadband services would leave some customers behind and create new problems. Universal service funding in uneconomic areas is critical to fulfilling carrier of last resort obligations, particularly as implicit subsidies are rapidly being eliminated due to competitive pressure and questionable traffic routing and compensation schemes. Moreover, focusing universal service support only on new broadband deployment

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<sup>7</sup> Much of the access replacement currently distributed to CMRS providers is being voluntarily reduced through commitments made in the context of merger proceedings.

<sup>8</sup> FNPRM ¶ 24.

could have the perverse effect of undermining private sector broadband investment: Investors would be less willing to provide capital to carriers serving high-cost areas—capital that could be used to invest in broadband deployment—if those carriers were forced to bear the economic burden of carrier of last resort obligations without sufficient support for existing services.

In any event, the need for prudent reforms of the high-cost model should not be used as an excuse to delay immediate progress on broadband deployment. Using the current model, outdated as it may be, in a transitional mechanism to promote near-term broadband deployment is far better than an approach that would produce no near-term broadband deployment. Immediate progress that leverages the existing model will best serve the public interest until more comprehensive, broadband-oriented reforms can be completed.

#### **D. Conclusion**

The Commission asked whether it should make “interim adjustments . . . to the non-rural mechanism that could be implemented quickly . . . .”<sup>9</sup> In response to this inquiry, the five mid-sized ILECs signing these comments urge the Commission to make the readily achievable transitional modifications proposed in the Broadband Now Plan. Should the Commission take this transitional step, it would increase broadband deployment quickly and improve existing telecommunications service in high-cost areas, which will facilitate rather than hinder achievement of the goals Congress has set for implementation of the National Broadband Plan.

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<sup>9</sup> FNPRM ¶ 27.

The Commission should take this step because broadband deployment is too important for our nation to pass up the opportunity for real improvement starting now, and because the current USF distribution suffers from such serious structural flaws that modest changes of a transitional nature will yield substantial public interest benefits.

Respectfully submitted,

/s/ Jeffrey S. Lanning  
David C. Bartlett  
Jeffrey S. Lanning  
CenturyLink  
701 Pennsylvania Ave., N.W., Suite 820  
Washington, DC 20004

/s/ Michael J. Shultz  
Michael J. Shultz  
Consolidated Communications  
350 S. Loop 336 W.  
Conroe, TX 77382

/s/ Kenneth F. Mason  
Kenneth F. Mason  
Frontier Communications Corporation  
180 S Clinton Ave.  
Rochester, NY 14646

/s/ D. Michael Anderson  
D. Michael Anderson  
Edward B. Krachmer  
Iowa Telecommunications Services, Inc.  
403 W. 4th St. N.  
Newton, IA 50208

/s/ Eric N. Einhorn  
Eric N. Einhorn  
Jennie B. Chandra  
Windstream Communications, Inc.  
1101 17th Street, N.W., Suite 802  
Washington, DC 2003