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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	

COMMENTS OF THE ALASKA TELEPHONE ASSOCIATION

It is with unbridled enthusiasm that the Alaska Telephone Association welcomes the opportunity to offer comments in this Notice of Inquiry ("NOI") and Notice of Proposed Rulemaking ("NPRM") that so dramatically offers to impact support for the provision of both voice and broadband services to the detriment of rural Americans. In our remarks, which we anticipate will be joined by a multitude of rural voices, we will focus on the proposed dichotomy of service between rural and urban America; the disregard and proposed termination of an admittedly successful regulatory policy; the proposed replacement of that policy with one modeled on a policy that has blatantly failed to deliver modern communications service to rural areas; a proposed ten-year transition period wherein successful practices are to be left behind while future practices are yet to be determined, and; the apparent substitution of agency policy for federal law. We are pessimistic that our advocacy will reverse the apparent course of the Commission's reform, but we will be certain that the record reflects with utter clarity our concern with that direction and we will speak forcefully of our belief that access to comparable telecommunications and broadband services for the really rural citizens of this nation are jeopardized by these proposed "reforms".

A Digital Divide

The NOI quotes and appears to advocate for an "initial national broadband availability target of 4 Mbps" [1] of download speed as recommended in the National Broadband Plan ("NBP").[2] The NBP also states as its Goal No. 1 that at least 100 million U.S. homes should have affordable access to actual download speeds of 100 megabits per second to "create the world's most attractive market for broadband applications, devices and infrastructure.[3] With the NOI apparently adopting the NBP's 4 Mbps standard as a baseline, it is not unreasonable to think that the Commission also intends to adopt the 100 Mbps to 100 million homes goal, especially as the Chairman has trumpeted that goal.[4]

Not long ago the "digital divide" was one of the most common catch phrases in the communications industry. It was raised as a concern that some part of the population – low income or rural – would be left behind as technology evolved and consumer demands increased. Apparently now a digital divide is proposed as an acceptable national policy because surely it is not rural America that will be among the "100 squared." Rural people will be brought "up" to the baseline standard of 4 Mbps while some significant portion of the American population will enjoy a market with speeds 25 times faster. As the latter is termed an "attractive" market, a rural citizen might wonder if a market with only four percent of that broadband speed is reasonably comparable for development interests or if it would be determined to be only four percent as attractive (i.e. pretty unattractive).

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[1] NOI/NPRM at 9.

[2] Federal Communications Commission, *Connecting America: The National Broadband Plan*, (rel. Mar. 16, 2010).

[3] NBP, Chapter 2.

[4] In a speech before the National Association of Regulatory Commissioners Conference, Washington, D.C., Feb. 16, 2010.

We are aware that the NBP does not specifically exclude rural America from the 100 Mbps goal; however, reason suggests that the market will deliver that level of service and it will happen where population densities are such that the per capita return is apt to be greatest. That does not describe rural America.

In a letter to the Chairman, twenty-two Senators expressed concern that some aspects of the NBP, including the 4Mbps/100 Mbps disparity, set the Nation on a course toward a greater digital divide and relegate rural areas to "second class broadband capacity."[5]

Federal law:

> *Consumers 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, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas….*[6]

Clearly the proposed urban/rural disparity in broadband speed (i.e. advanced telecommunications services) is contrary to public policy, law and is unacceptable.

<u>Accountability and Efficiency</u>

The NOI incorporates the proposals put forward in the NBP such that the two are inseparable. Further it refers to the Joint Statement on Broadband[7] released the same day as the NBP and by reference to each of these documents, alludes to their respective declarations as if they were fact, rather than pronouncements. The latter justifies Universal Service Fund ("USF")

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[5] Letter to FCC Chairman Julius Genachowski from 22 United States Senators, June 10, 2010.

[6] 47 U.S.C. § 254(b)(3).

[7] Joint Statement on Broadband, GN Docket No. 10-66, released March 16, 2010.

and intercarrier compensation ("ICC") reform "to increase accountability and efficiency." Reiterated in the NBP, it goes on to describe the creation of a Connect America Fund ("CAF") to support the provision of broadband. In announcing the creation of a Universal Service Working Group, Chairman Genachowski said "This agency-wide effort reflects the FCC's commitment to smart and fiscally prudent policies that eliminate inefficiencies and target universal service support effectively…."[8]

The Universal Service Fund is actually comprised of four funds; High-Cost, Schools and Libraries, Low-income, and Rural Health Care. It is only the high-cost portion, presently $4.6 billion that has been identified for transition to the CAF.

It is perplexing that increased accountability and efficiency are offered as the justification for "reform" of high-cost universal service support as it would be difficult to find an industry whose costs and revenues are more closely scrutinized than those of the rate-of-return ("ROR") companies that are the recipients of high-cost support. Audits by state commissions, the National Exchange Carriers Association ("NECA") and the Universal Service Administrative Company ("USAC") are regular occurrences that examine the minutiae of the capital investments, operations expenses, and revenues of these rural service providers.

Along with the rate-of-return carriers, competitive eligible telecommunications carriers ("CETCs") receive support from the high-cost fund. The per-line amount of support each CETC receives is provided based upon the policy of identical support. That is, the CETC receives the same amount of support per-line as the incumbent local exchange carrier ("ILEC") in the same study area. Again, the ILEC revenue stream and expenditures have been very thoroughly examined so there is no lack of accountability regarding the high-cost USF disbursements.

[8] FCC Chairman Julius Genachowski Announces Launch of Universal Service Working Group, June 14, 2010.

As regards efficiency, even this NOI declares "The current system of high-cost support has achieved considerable success, helping ensure access to affordable voice services in all regions of the nation."[9] The assigned task has been accomplished at only the extremely well-documented cost necessary to provide access to the service at affordable rates. However, unlike the pyramids, the network is not an edifice to be exhibited for the ages, but an ongoing operational infrastructure continually evolving and adapting due to consumer demands, regulatory edicts, and technological innovations. The much disparaged "legacy network" was built last year and is under renovation this summer in Alaska. Plans are on the drawing board for 2011 construction and further into the future. Loan requests have been made for those future endeavors and debt from enhancements made in 1999 remain on company books. This ever-evolving, ever-consuming and ever-operating "legacy network" operated by small independent ROR companies is providing modern telecommunications in rural America today.

Matanuska Telephone Association ("MTA") is a small telecommunications cooperative serving 10,000 square miles in south central Alaska. Over the past ten years, MTA has invested in shortened loops, extending the fiber network and installing broadband equipment. Today, 98% of MTA's almost 35,000 co-op members have access to broadband service of 768kbps or greater and 61% have access to 30Mbps. Access to the 4Mbps baseline standard proposed for support by the CAF is already enjoyed by 85% of MTA's customers who are being successfully served over a "legacy network" that was efficiently built and is efficiently operated with the help of USF. In spite of the "complicated patchwork of programs" alluded to as the basis for high-cost support, MTA's recovery is based on its own meticulously scrutinized financial statements

[9] NOI/NPRM at 3.

as a ROR carrier and the support is only the amount necessary for this rural company to provide service comparable to urban areas at an affordable rate.

Without regard for the basis of the amount of the high-cost USF being $4.6B, the NBP proposes shifting it to the CAF and distributing some of it to rural areas where broadband has not been provided by the incumbent carrier. Generally, these rural areas are underserved by carriers offering service under "incentive regulation." Quizzically, the NPRM proposes shifting ROR carriers, who have the best record of broadband deployment, to "incentive regulation" which has apparently failed as an incentive to link rural Americans to the modern network. This proposal strongly indicates that assuring rural America of the same quality of service as urban areas is not of great concern to the NBP authors. Who is our William Jennings Bryan today; that staunch Democrat and advocate for rural America?[10]

Models

We are gratified to see that the Commission seeks comment on whether it should use a model "to help determine universal service support levels in areas where there is no private sector business case to provide broadband and voice services."[11] Often, in the industry, we refer to these as high-cost areas. The term refers to places where the population density combined with the cost of infrastructure deployment and operations are such that the customer base would not, while paying an affordable rate, generate sufficient revenues to fund the utility. Sans the policy of universal service which provides high-cost support, most people in such communities

[10] "*Burn down your cities and leave our farms, and your cities will spring up again as if by magic; but destroy our farms and the grass will grow in the streets of every city in the country*." William Jennings Bryan, Cross of Gold speech, Democratic National Convention, July 9, 1896.

[11] NOI/NPRM at 2.

would be without access to the national telecommunications network and the world-wide-web. Most generally, it is the small independent companies and cooperatives that are now identified as ILECs that, because they had a particular interest in the locality, brought service where the "national" providers declined to build.

All of these rural providers, in comparison with the remnants of the Bell Operating Companies, are tiny; miniscule, perhaps. Even "atomized" is a term that has been used. Actually they are so small that they don't even matter… except desperately to the customers and communities they serve and to the families, friends and businesses that want to be able to be in contact with those customers. But if they are all "tiny," they are not all the same. Not even if they are the same size. They only appear that way from the lofty perspective of the national carriers and those who view the rural providers in that comparative context. Upon closer inspection it would be obvious that even companies serving similar numbers of customers differ dramatically in their costs to deliver comparable services. The long loops that must be plowed and the driving times to provide maintenance in a 10,000 customer company in South Dakota are not the same challenges or likely the same costs as a 10,000 customer company in Alaska where the small communities are unconnected by roads; where air and water travel are the only means of physical access. And if similar size companies have dissimilar per capita costs, what is the likelihood that a company one one-hundredth of that size would not vary, or one four times larger?

These simple arguments would tend to weigh against the use of a model as a useful tool to allocate support in high-cost areas. Although a model would be a more efficient method of distribution (assuming results are not a factor for consideration in "efficiency"), clearly it would be a less effective method of providing the correct – sufficient – amount of support to each rural carrier. However, a further review of the NOI indicates that these arguments are apt to fall upon

deaf ears as the Commission has already stated that a "federal model could provide a more uniform and equitable basis for determining support than individual carrier cost studies…."[12] Truly, it is hard to understand how a model would be more accurate in allocating a sufficient (and only sufficient) amount of support to a specific high-cost service provider than would a careful review of its own revenues and expenses.

Reverse Auctions

Initially considered as a universal service mechanism immediately following the adoption of the 1996 Telecommunications Act, the practicality of reverse auctions has matured little. The use of reverse auctions as a mechanism for selecting the supported broadband provider in high-cost areas represents a disruptive experiment destined for failure. The Commission suggests that reverse auctions would be a market-based mechanism. The reality is that high-cost areas are not market-based areas where the market will successfully provide access to quality broadband service any more than it does to voice grade service today. The investment requirements to deliver universal service necessitate assurance of "predictable and sufficient" funding mechanisms,"[13] whether from a high-cost universal service fund or a CAF. The risk of the reverse auction process is that if successful, customers will receive a minimal level of service and if unsuccessful, the network will fail. Fortunately the 1996 Act codified comparability and sustainability of services. Competitive bidding would fail to deliver service meeting either criterion.

[12] NOI/NPRM at 17.

[13] 47 U.S.C. Sec. 254(b)(5).

CETC High-Cost Support

High-cost support for CETCs has been a controversial policy and is high among the causes of the increased contribution factor; however mobile service in this state has blossomed due to that policy and due only to that policy. Even in communities with small populations, the combination of comparatively modest costs (as compared with wireline infrastructure) and the CETC high-cost support has allowed residents to gleefully adopt network wireless connectivity that is taken for granted in the contiguous states. With proposals to eliminate CETC high-cost support and requests for comments on how quickly to do so,[14] the Commission should consider the special circumstances of some rural areas. Cellular service would not be available in much of this state and, in the very near future, going into many more communities without support. If Alaskans in small, rural communities are to retain cellular access to emergency services, support must continue. We appreciate that the Commission has raised concern for Tribal Lands (Alaska Native regions have been accorded status as Tribal Lands.) and insular areas and asked if circumstances might necessitate a different approach.[15] We think they do.

Transition

The enthusiasm for comprehensive reform of high-cost mechanisms voiced in the NBP and this docket is laudable; the acknowledged benefits may prove to be elusive. From an admittedly very rural perspective, many of the proposals are frightening as they curtail policies that support rural access today and promise to search for an alternative that might work in the future. "In this NPRM, we propose to contain growth in legacy high-cost support mechanisms as

[14] NOI/NPRM at 60 and 61.

[15] NOI/NPRM at 13.

a critical first step to transitioning…."[16] There is some negative impact to "containing growth" for the high-cost service provider. Does it mean serving an increasing number of customers with a diminishing level of per capita support? Maybe it means putting infrastructure upgrades on hold? Does it impact customers? Absolutely! And that is simply the first step to transitioning. No new policy has been implemented.

The Commission recognizes that there *could* be transitional impacts.[17] Truly, we expect more from this agency! The opportunity is presented to identify all assumptions and to provide supporting data to any commenter who believes capping support would negatively affect affordable voice service. Are there *any* commenters who would argue that it would *positively* affect affordable voice service? Is it not reasonable to think that infrastructure investment and network upgrades will be tempered by capped revenue streams? Won't lending institutions be more conservative in their policies? And how can a company offer corroborating information on its five-year investment plans when it has no idea what revenue streams might be existent at that period in the nebulous transition? Perhaps the Commission could have recognized that there might be *dire* transitional impacts and asked for comment including documentation of the anticipated severity of those impacts.

Toward the end of paragraph 53 is a statement that might have prevented much confusion and consternation to rural commenters had it appeared earlier in the NOI/NPRM. "The intent of these proposals is to eliminate the indirect funding of broadband-capable networks today through our legacy high-cost programs…." Thus, apparently, ROR rural carriers who have deployed advanced services-capable networks were wrong in doing so and shall be chastised by being

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[16] NOI/NPRM at 50. More specifically than "containing growth," "capping legacy high-cost support provided to incumbent telephone companies at 2010 levels" is the proposal offered in the following paragraph.

[17] NOI/NPRM at 53.

shifted to incentive regulation like those carriers who generally have not invested in advanced services-capable networks for their rural customers. Additionally, significant portions of the high-cost support that the ROR carriers responsibly used to deliver the advanced services as required by Sec. 254(b)(5), shall be "transitioned" to today's incentive regulated carriers to finance the build out of broadband-capable networks in their unserved and underserved areas. With all due respect, it is impossible for us to avoid being cynical in the face of logic so detrimental to rural residents. If we did not have confidence in the very substantial combined intellect of the Commission and its staff, we might conclude that there was a lack of ability to reach a rational conclusion. Recognizing that intellect, we can only surmise that it is not irrational if you are purposely choosing winners and losers.

Assessment Base

Correctly, the Commission points out that "consumers across America ultimately pay for universal service."[18] Of course those consumers also pay for local service, long distance service, Internet service and indirectly for the "free" VoIP services. And all consumers across America have access to the national network because of the policy of universal service. There is a cost to the network.

One recommendation is the elimination of interstate access support ("IAS") with the funds going to the CAF.[19] IAS is just a revenue stream. It can go away, but the costs remain. What will replace it? Not the capped support. Local rates? Or will the network become degraded or access diminished as a necessary cost reduction measure? Consumers across

[18] NOI/NPRM at 50.

[19] NOI/NPRM at 57.

America will pay for it one way or another! If the USF contribution factor that appears so frustratingly on monthly statements is to be reduced, the assessment base must be broadened so that everyone using the network contributes. It is an IP network and all that travels on it is data regardless of the originating or terminating appearance. Costs should be equitably allocated.

Middle Mile

Middle mile costs are a barrier to entry in Alaska. It would be unreasonable to expect otherwise as our "middle mile" distances, irrespective of topography, by far exceed those of any other state. Alaska has more than twice the land mass of the second largest state and, with the Aleutian Islands and the Panhandle; this is not a compact land mass. Ketchikan at the southern end of the Panhandle is nearer Seattle than it is to Anchorage and Anchorage is considered *South*central Alaska. Size matters and it costs! Compounding the challenge of distance is that about 250 of the communities have no road access at all. Each is truly insular from every other community in the state. Whatever the choice of connectivity between communities, be it fiber optic cable, copper, microwave or satellite, if it is at all possible, it is expensive. In most cases, fiber and copper are not realistic options due to distance and terrain. Satellite has been the method of delivery in most of the isolated communities and it has issues with speed, capacity, latency and costs of transmission. Compounding that and significant even if satellite costs were not an issue, is the small population of many communities.

In virtually all Alaskan communities the local facilities are already capable of broadband delivery or with minimal upgrades could be broadband capable, however the middle mile costs are such that there is no plausible revenue stream to justify high speed access to the existing

facilities. Even in most small communities where the middle mile is provided by other than satellite, costs are high and per capita costs exorbitant.

Satellite would not be the desired middle mile provider of service anywhere in the nation. In fact, it is not a technology that permits service comparable to terrestrial broadband although it is described in the NOI as an "alternative approach."[20] It could accurately have been termed an "inferior approach." We believe that the 1996 Telecommunications Act did not single out any small segment of the population for inferior access. The goal of industry, technology, the FCC and Congress must be to ensure that every American has access to advanced services. Rural Americans deserve that and we demand it.

Tribal Lands Middle Mile USF Support

The Commission recognized that there are "…unique circumstances in Tribal lands that necessitate a different approach."[21] Such circumstances are exemplified in Alaska. The tremendous cost of middle mile transport to connect to the Internet backbone often prohibits the local provider from offering its customers reasonably priced broadband services. Those high costs are due to factors specific to each locale, but all are aspects of vast distances, extreme terrain and weather, and small populations. The costs are such that in many locations, terrestrial middle mile transport has not been built due to the lack of a viable business case. In some of those locations where facilities have been built the commercially available rates for transport are such that we resort to low speed offerings (128 Kbps for example), and financial deterrents (usage based charges) to limit customers' use of the service. Unfortunately, many of these same

[20] NOI/NPRM at 22.

[21] NPRM at 50.

communities also experience high unemployment rates; economic adversity that could be partially mitigated by having access to reasonably priced broadband services.

A solution might be to establish a Tribal Lands Middle Mile USF Support mechanism (to include Alaska and Native Hawaiian populations). Using a model similar to the existing Rural Health Care USF program, the support would be based on the cost of transport facilities in the rural high cost area as compared to the cost of the same transport facility in the closest urban area. The difference between the two would be the support amount to the rural carrier. The services would be provided by the rural carrier, as a condition of receiving the support, on common carrier basis that would provide other Internet service providers access to the facilities, as well as the last mile facilities on a tariffed basis, similar to the manner that DSL services are provided by NECA pool companies today. The tariffed service would include transport to the Tier 1 carriers' point of presence ("POP") and the equipment necessary to segregate the traffic so that individual Internet service providers could choose their Tier 1 Internet service provider.

Conclusion

"Everyone in the United States today should have access to broadband services…" is the opening statement of Chapter 8 of the NBP. We agree. We appreciate that the FCC envisions a future when such access will be available and we appreciate the proposal of a Connect America Fund to provide nationwide support at that time, however we recoil from the proposal that successfully deployed rural segments of the "legacy network" should experience a diminished and obviously insufficient revenue stream and dismissed as collateral damage on the path toward that future. No American should have access to a reduced level of communications services in the "transition period" than they have today, but that will undoubtedly be the case if modeling or

reverse auctions or shifting predictable and sufficient high-cost support takes place. Universal service should be preserved and advanced.[22] The preservation of it is not to be sacrificed in its advancement.

By these comments, we think it will be clear that Alaska feels very threatened by some of the proposals put forward in the NBP and quite quickly released in this NOI/NPRM. [Close by the alders rattled and as we turned toward them a bear came charging out. It is reason to be alarmed.] There was a huge effort put into the drafting of the 360 page NBP and the subsequent NOI/NPRM. We look forward to working with the Commission in an effort to achieve the best possible public policy and provide the finest possible communications network to every community in the nation; urban and rural. But we hesitantly admit that we are concerned that our voice will not be heard; that conclusions have already been reached on the questions asked in the NOI. We remind the Commission that universal service policy has been created by Congress. We expect the Commission to implement that policy.

Respectfully submitted this 12th day of July, 2010.

ALASKA TELEPHONE ASSOCIATION

By: _____
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[22] 47 U.S.C. § 254(b)(4).