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 UTAH RURAL TELECOM ASSOCIATION

July 12, 2010

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I. INTRODUCTION

The Utah Rural Telecom Association ("URTA"), by and through its undersigned counsel, files these comments in response to the Federal Communications Commission's ("Commission") Notice of Inquiry and Notice of Proposed Rulemaking ("NOI" and "NPRMs") for the National Broadband Plan released April 21, 2010.

URTA is an association of fourteen rural local exchange carriers who serve customers throughout rural Utah and receive high-cost universal service support.[1] In addition to traditional local exchange service, all URTA members already provide broadband service to their customers and several members offer Internet television and operate separate wireless affiliates. Collectively and individually, URTA members have in-depth experience with the current high-cost support system and have a significant interest in the NOI and NPRM.

[1] The URTA members are All West Communications, Bear Lake Communications, Beehive Telephone, Carbon Emery Telcom, Central Utah Telephone, Direct Communications, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone Company, Skyline Telecom, South Central Communications, Strata Networks, and Union Telephone Company.

The role of federal universal service support has been to ensure that customers living in high cost areas in the country have access to telecommunications services at affordable rates so customers everywhere can contact one another. These objectives are as important today as they were when the program began and no action should be taken that could diminish or impede the progress the current universal service support program has made to provide affordable telecommunications services throughout the country.[2] As a general premise, URTA supports efforts designed to ensure sustainable, predictable, cost-based universal service support that fulfills the congressionally-mandated purpose to provide access to affordable, high-quality telecommunications services, including broadband services, in America. For the reasons stated below, URTA does not believe the National Broadband Plan ("NBP") accomplishes these objectives. URTA's comments will first generally address modeling and reverse auctions raised in the NOI. Second, the comments will address certain issues raised in the NPRM.

II. NOI

A. Modeling Must Not Be "Ends Driven"[3]

Based on URTA's observation and experience, cost modeling is frequently flawed because it is driven by the objectives of the modeler. Following passage of the 1996 Federal Act, competitive local exchange carriers ("CLECs") produced cost models showing incumbent providers' costs to be low to enable CLECs to interconnect with the incumbents less expensively. Incumbents produced cost models showing much higher costs. State commissions

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[2] URTA urges the Commission to first reform contribution policy to broaden the base of contributors and to ensure equal and fair treatment of all service providers and customers using the services.

[3] URTA has not completely analyzed the NBP model but intends to during this rulemaking process to make further comment.

were faced with these dueling models and at least the Utah commission ended up blending the models to achieve an outcome that attempted to be fair to both parties.[4]

Modeling with an agenda leads to perverse, unfair results. Models must reflect real costs; otherwise new entrants will be given incorrect price signals and providers will not invest in infrastructure. Models can be useful as a check or measure, but they must not be divorced from the real world.

B. Reverse Auctions

1. URTA Strongly Opposes Reverse Auctions

The Commission raised the use of reverse auctions in the NOI in the context of cost modeling. URTA strongly opposes reverse auctions and disagreed with the Commission's tentative conclusion in its Reverse Auction Rulemaking that reverse auctions offer advantages in distributing high-cost support. URTA opposes the development and implementation of any reverse auction mechanism for rural incumbent carriers because of the negative effect it will have on investment in infrastructure in rural areas. It is URTA's position that under a reverse auction regime, service in rural areas will deteriorate and it will not be possible to ensure the universal availability of services. If implemented, the use of reverse auctions is a policy the Commission will likely have to change within a few years following implementation to address the harm it will have caused to service in rural areas.

2. Reverse Auctions Will Stifle Capital, Reverse Incentives, Harm Service

Economic lives of most facilities and cost recovery periods for investment in infrastructure will be longer than the length of an auction term. If universal service fund

[4] The cost models used during this period are not useful for rural America. They assumed an urban setting and do not reflect the conditions in rural America.

revenues are only available during the term of an auction, those revenues will be at risk each time there is an auction. Should a rural local exchange service provider lose an auction and the accompanying universal service revenues before it has had an opportunity to recover its investment costs, the provider may have to default on its loans and possibly seek bankruptcy protection. Lenders will not lend money under this cloud of risk and the provider will have no incentive to invest. As the lowest bidder with the least support from the support fund, the winning bidder will avoid upgrading its equipment where possible and will be slow to extend service to underserved or unserved areas. URTA believes reverse auctions simply reverse investment incentives and will worsen the quality and availability of service in rural America.

III. NPRM

A. The NBP Discards the Good of the Current Program

The current universal service support system has achieved its objective of making telecommunications services available to the vast majority of Americans. Even though the current program has primarily supported voice service, the infrastructure installed for that purpose has allowed service providers to offer advanced services, including broadband service. In Utah, broadband service at the Commission's targeted level in the NBP of four Mbps down and one Mbps up is already available to more than 96 percent of rural customers served by URTA members. That exceeds the availability rate of broadband in other parts of Utah. The NBP has no provision for maintaining what rural providers have achieved and virtually ensures a significant shift in support away from rural Utah to areas that have not yet achieved the targeted service levels.[5] That can only cause deterioration in service in rural Utah and that is not in the

[5] URTA has not researched the areas in the country that have not achieved the targeted speed levels, but undoubtedly some of the areas that will benefit are served by providers that are price

public interest. The NBP's policy shift from universal service support of telecommunications services to the Connect America Fund to support broadband service may require new direction and legislation from Congress.

B. URTA Opposes the Commission's Proposal to Cap the Fund

URTA opposes the Commission's proposal to cap the current universal support fund. The cap is artificial and arbitrary. The proposal does not meet the statutory requirements of 47 U.S.C. § 254(b)(5) that the fund be specific, predictable and sufficient to preserve and advance universal service. There are no findings or analysis showing how capping the fund at 2010 levels is sufficient to fulfill the purposes of the fund. The cap would be arbitrarily chosen to avoid increasing the burden on consumers who pay universal service contributions. If the Commission is going to cap the fund, there must be analysis, findings, and a rationale for the Commission's decision that satisfies the congressionally-mandated sufficiency principle. Without that kind of showing, the Commission should not entertain this recommendation.

C. Requiring Providers to Shift from Rate of Return to Incentive Regulation is not in the Public Interest

Incentive regulation has not provided adequate incentive to service providers to invest in infrastructure and it certainly will not in rural America. The Commission should analyze the data it receives from the states on the availability and affordability of broadband service before it attempts to shift rate-of-return providers to price cap regulation or some other form of incentive regulation. Based on observation, URTA believes the inadequacies and unavailability of broadband service in America occur principally in areas where providers are under price cap regulation. Providers under this regime have not invested the resources necessary to make

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capped and have not had the incentive to invest sufficiently in broadband to make it widely available.

broadband service universally available. If that is true, incentive regulation is not in the public interest and will produce the opposite result the Commission is seeking in the NBP.

IV. CONCLUSION AND SUMMARY

URTA will support universal service reform that is sufficient, predictable, sustainable, and acceptable to lenders to maintain access to capital for investment in rural areas. URTA believes the NBP will have the opposite effect the Commission seeks to achieve. The direction the Commission is taking with respect to modeling may leave incumbent providers short of full cost recovery. Reverse auctions will harm quality and availability of service in rural areas. The change in policy to support broadband at levels already achieved by URTA in Utah will shift funds from URTA service territory to areas that have not achieved the target levels and will lead to deterioration of service. The proposed cap is arbitrary and will lead to uncertainty and incentive regulation will create disincentive to invest if cost recovery is in question. As a result, URTA does not believe that the NBP as drafted is in the public interest.

Respectfully submitted this 12th day of July, 2010.

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