Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	GN 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 FARMERS TELECOMMUNICATIONS COOPERATIVE, INC.

July 12, 2010

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EXECUTIVE SUMMARY

These comments demonstrate that under the existing Universal Service Fund ("USF") high-cost support mechanisms, the Commission's goal of universal access to broadband in rural areas is indeed being achieved now by rate-of-return regulated incumbent local exchange carriers ("ILECs") and that the proposals in the NOI/NPRM to "cap and cut" high-cost support would in fact be extremely detrimental to the continued deployment of broadband service to rural areas and thus contrary to the NBP's goal of universal access to broadband in rural areas. Accordingly, consistent with the public interest, the Cooperative urges the FCC to reject these proposals and ensure that the current high-cost program remains intact while the Commission undertakes its long range goal of replacing legacy programs with the Connect America Fund ("CAF").

These comments will demonstrate the fact that proposals to cap and cut high-cost support would negatively impact the cash flows of, and future investments in rural ILECs. FTC strongly believes that a one-size-fits-all approach to providing access to broadband services will fail rural America, because of the unique circumstances that exist in those parts of the country. Unless the proper revisions are made to the USF program, rates will increase for rural America, despite the efficiencies that FTC has obtained in the past, and continues to maintain today. Currently, it is difficult for FTC to attract investors or lenders in order to secure the support necessary to fund plant expansions and upgrades. The absence of USF support and other viable financial alternatives would be very damaging to FTC, and would effectively cause a halt to the planned deployment of additional facilities required to provide broadband service throughout FTC's service territory.

FTC is an example of how a rate-of-return rural ILEC can thrive under the current USF program, and how USF support has been pivotal in aiding rural companies deploy the necessary infrastructure in order to provision high speed data service. Rate-of-return regulation has many benefits that should be maintained in the future. Moreover, the FCC has other alternatives that can and should be considered in lieu of completely dismantling the USF program, especially when the current program has fostered an environment where tremendous growth has been experienced throughout the country with respect to the deployment of broadband services to rural America. FTC implores the FCC to use a scalpel and not a machete when implementing revisions to the USF program and transitioning to the CAF program.

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COMMENTS OF FARMERS TELECOMMUNICATIONS COOPERATIVE, INC.

Farmers Telecommunications Cooperative, Inc. ("FTC or the "Cooperative") hereby responds to the invitation of the Federal Communications Commission ("FCC" or "Commission") to comment on proposals to reform the high-cost universal service program set forth in the Notice of Proposed Rulemaking ("NPRM") contained within the Commission's NOI/NPRM.[1] These proposals are part of the National Broadband Plan ("NBP") which has as its ultimate long-range goal of "replac[ing] all the legacy High-Cost programs with a new program that preserves the connectivity that Americans have today and advances broadband in the 21st century."[2]

These comments demonstrate that under the existing Universal Service Fund ("USF") high-cost support mechanisms, the Commission's goal of universal access to broadband in rural areas is indeed being achieved now by rate-of-return regulated incumbent local exchange carriers ("ILECs") and that the proposals in the NOI/NPRM to "cap and cut" high-cost support would in fact be extremely detrimental to the continued

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[1] *Connect America Fund; A National Broadband Plan for Our Future; High-Cost Universal Service Support*; WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58 (rel. Apr. 21, 2010) ("NOI/NPRM").
[2] *Id.* at para. 10.

deployment of broadband service to rural areas and thus contrary to the NBP's goal of universal access to broadband in rural areas. Accordingly, consistent with the public interest, the Cooperative urges the FCC to reject these proposals and ensure that the current high-cost program remains intact while the Commission undertakes its long range goal of replacing legacy programs with the Connect America Fund ("CAF").

I. Introduction

As Alabama's largest member-owned, operating telephone cooperative, FTC is a rate-of-return regulated rural ILEC that provides reliable telecommunications service to approximately 15,000 subscribers in seven exchanges across DeKalb and Jackson counties in northeast Alabama. The Cooperative and its affiliates also provide high speed Internet, video and wireless resale services for those within its service territory.

From its original incorporation in February 1952, FTC has never wavered from ensuring that residents and businesses in this diverse rural area would have access to the kinds of services readily available in more urban markets. FTC, a community based telecom provider, is proud to be a member-owned cooperative. Our mission is simple, to offer members the very highest quality, most advanced telecom services and benefits available, in an affordable and responsive manner. With our state-of-the-art network and the latest technological applications, FTC offers members and patrons, our friends and neighbors, all that telecom systems makes possible.

Unfortunately, FTC fears that the proposals being discussed at this time to modify the Universal Service Program may have a detrimental impact on FTC's ability to continue to provide the robust array of quality services that the FTC Board expects the

Cooperative to continue to offer, and our customers have grown to expect. As indicated below in these comments, FTC has effectively utilized its existing USF high cost support to deploy new telecom technologies that are capable of being used to provision traditional voice as well as data and video service. Accordingly, any revisions to the USF mechanism that would "cap and cut" the USF support that FTC receives would adversely impact FTC's ability to maintain the quality of service and continued deployment of advanced telecommunications services that FTC has successfully provided in the past.

II. Proposals to Cap and Cut High-Cost Support Would Negatively Impact Cash Flows and Future Investments

As recognized by the Commission in the NOI/NPRM, "[u]nder the Commission's so-called 'no barriers' policy, high-cost support for voice services indirectly supports the deployment of broadband capable networks.[3] This is indeed the case for FTC. Of its total revenues for 2009, over twenty-six percent was received in the form of high-cost USF support. These funds were used for the provisioning of telecom services <u>and</u> high-speed broadband to FTC's subscribers through its extremely well engineered twenty-two and twenty-four gauge, very well bonded, copper plant and fiber facilities.

In 2002, FTC rolled out high-speed Digital Subscriber Line ("DSL") service to ensure its members would have access to the benefits of high-speed broadband services. As of today, approximately 7,600 of the Cooperative's 15,000 members subscribe to high-speed data through either copper-based DSL or fiber to the premise technology. By

[3] *See* NOI/NPRM at n.119 citing *Rural Task Force Order*, 16 FCC Rcd at 11322, para. 200 ("The public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services. . . . Thus, although the high cost loop support mechanism does not support the provision of advanced services, our policies do not impede the deployment of modern plant capable of providing access to advanced services").

the end of 2011 fiber facilities will pass seventy-two percent of FTC's subscribers and an additional twelve percent will be located within three thousand feet of a copper wire center.[4] Those subscribers served by fiber or located within the aforementioned three thousand feet will have access to world-class broadband connectivity obviously more in keeping with the Commision's long-range goals of 100 Mbps than with its immediate target of 4 Mbps. Currently, speeds of up to 1.5 Mbps are available to most members, a significant number have access to 3 and 6 Mbps capacities and over ninety-five percent of the members have access to at least 768 Kbps. It should also be noted that FTC aggressively seeks to offer customers the greatest bandwidth available based upon the actual physical capacity utilized in serving the subscriber. This is consistent, of course, with sound engineering practices regarding backhaul capacity and the application of FTC's Fair Access Policies and Procedures.

While the Cooperative supports the concept of transitioning USF high-cost funds to more directly support the Cooperative's broadband services, the proposals set forth in the NOI/NPRM do not provide for such a path. Instead, they propose to eliminate high-cost support for current recipients – support that promotes both telecommunications <u>and</u> broadband services - without any assurances that the recipients will have access to support once the funds are transitioned to the CAF. Accordingly, the Cooperative urges the FCC to reject these proposals and ensure that the current high-cost program is maintained while it develops and implements the mechanisms for transiting USF funds to more directly support broadband.

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[4] Approximately eight percent will be between three thousand and six thousand feet. All percentages are reasonable approximations.

A. The Proposals Would Negatively Impact Cash Flows

As demonstrated above, the Cooperative relies heavily on high-cost USF support to maintain and upgrade its telecom and broadband networks. Accordingly, any potential loss of high-cost USF support, such as is envisioned by the capping of high-cost support at 2010 levels and converting the Cooperative's interstate common line support ("ICLS") to a frozen amount per line, would mean that revenues would need to come from other sources of revenue in order to maintain positive cash flow. This is due to the fact that the three main sources of income – USF, Intercarrier Compensation ("ICC") and subscriber revenues - are interdependent. As the Commission is fully aware, revenues from ICC are declining. Consequently, because the Cooperative relies so heavily on USF, any reduction in the amount of high-cost USF support would require raising rates charged to subscribers and would require that the Cooperative significantly cut operating expenses in order to seek to maintain positive cash flows.

These drastic actions, however, would still not be enough to ensure that the Cooperative is able to continue to provide quality telecom and broadband services. Any rate increases could only be modest as the rates currently charged are already priced competitively and are comparable to those in urban areas. As to any expenses that would be cut, FTC has taken several steps to increase efficiencies, including reducing staff to "bare bones" and cutting other operating expenses. Any further reductions in expenses would require the Cooperative to reduce its service offerings and could result in the Cooperative having to terminate its operations entirely. It should also be noted that as a member-owned institution, FTC embodies the highest principles embedded in the illustrious history of the American Cooperative Movement. Cooperatives have long played a significant role in the American Free Enterprise system bringing such things as electrification, water, telecommunications and agricultural services to rural America when invester-owned solutions were either impractical or marginal in their effect. In fact, it is often asserted that the Cooperative form of organization is the most democratic form of free enterprise – consumers serving themselves. As just such a cooperative, FTC is an integral part of its community. It offers services to institutions of public education and higher learning, participates in economic development activities, offers community awareness and philanthropic assistance, etc. all in ways that only a consumer-owned and member-focused organization would legitimately be able to do. FTC's failure as an ongoing concern would have public infrastructure implications well beyond merely the demise of telephone service in rural Alabama.

B. The Proposals Would Stifle Future Investment

Even if FTC is able to maintain a positive cash flow, the Cooperative would have no choice but to curtail all planned investment as there would not be sufficient funds to move forward with those plans. The Cooperative has specific plans for network investments for voice and broadband over the next five years. The previously cited approximations of fiber and short-length copper availability are the result of a current three year work plan. It is of extreme importance to note that much of FTC's legacy copper plant is approaching end of life measurement as well as physical capacity limitations brought about by the DSL-induced removal of load coil technology. As would any provider, FTC would be ill advised to replace any such copper plant with any technology other than optical fiber absent some overriding technological constraint. Optical fiber is now clearly demonstrated to be the most "future proof" technology for providing long term bandwidth solutions. It is also clearly evident that such technology is also likely the most economically efficient when the relevant costs are measured in the most appropriate manner, to wit: the cost of provisioning on a per byte of data basis.[5] The imposition of a cap on high-cost support and the proposal to convert the Cooperative's ICLS to a frozen amount per line create disincentives and reduce the likelihood of the Cooperative expending any more resources on investing in costly infrastructure for the upgrade and expansion of telecommunications and broadband services to the rural communities in which the Cooperative serves.

FTC currently has eight outstanding loans with the Rural Utilities Service ("RUS"). All proceeds from these loans were used for plant expansion and upgrades. As with any loan arrangement, FTC must prove their financial viability and efficiency of operations to assure the lending institution that the loan will be repaid in accord with the loan covenant. The revenue derived from USF support is instrumental in fostering FTC's ability to make the necessary demonstration to fulfill these loan covenants and to secure new loans. Unfortunately, while the uncertainty remains concerning whether or not the support needed in rural America will be sustained, investors and lenders are not lining up to provide the funds necessary to fill this potential gap. Indeed, already, lenders have indicated their reluctance to extend new loans to rural LECs due to the proposals in the NOI/NPRM "because it is unclear whether these carriers will have sufficient future cash flows to service the debt."[6] Funding for future investments should be both sufficient and predictable. However, predictions for continued support in the future appear to suggest

[5] See "Providing World-Class Broadband: The Future of Wireless and Wireline Broadband Technologies, Foundation for Rural Service", Rural Telecom Educational Series, March 4, 2010.
[6] See OPASTCO Ex Parte Notice from Stuart Polikoff, Vice President of Regulatory Policy and Business Development, OPASTCO, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 05-337, GN Docket No. 09-47, 09-51, 09-137 (May. 12, 2010).

that future funds will be both insufficient and unpredictable. FTC strongly maintains that this situation is untenable, and unfair to rural America.

Accordingly, the significant reduction in support which would be caused if USF support was capped at current levels and ICLS was converted to a frozen amount per line would greatly inhibit FTC's ability to secure new debt in order to deploy more fiber and other facilities to deliver quality telecom and broadband services.

III. Rate-of-Return Regulation Should Not Be Abandoned Due to its Many Benefits

The current "state of the art" telecom and broadband networks in rural areas have been built primarily through rate-of-return regulation of the rural telephone companies over many years and not through companies under price cap regulation. Requiring these carriers to transition away from rate-of-return regulation to price cap or any other alternate form of regulation would eliminate the many benefits that rate-of-return regulation brings and thus be contrary to the public interest.

A. Benefits Derived from Provider of Last Resort Obligations

One of the benefits that have accompanied rate-of-return regulation is the "provider of last resort" obligations that are imposed by state regulatory authorities upon these companies for their entire ILEC study areas. As the Commission is aware, POLR duties require that carriers provide services to all requesting customers throughout a designated service territory and provide basic telecommunications services at affordable prices. Understandably, the tension between meeting its POLR obligations, maintaining rates at reasonable levels, and potentially decreasing and ultimately ending reliance on USF support, creates an environment for FTC that makes it difficult and sometimes impossible to compete with the investment incentives and opportunities found elsewhere in the marketplace.

Currently, there is a social contract between federal and state regulators and rural ILECs that provide the rural ILECs with the ability to strike the required balance between these often competing objectives. For a cooperative, this contract has an even greater meaning since the purpose of the cooperative is to provide services to all members and that in most instances, earnings from cooperative operations are redirected to benefit the cooperative members.

While competitors may define their service areas in a way that chooses the more densely and less costly areas to serve, rural ILECs are obligated to provide service to those that reside in even the most costly to serve areas. Accordingly, the scope and scale of the service areas of the competitors differs drastically from the scope and scale of the rural ILEC study areas. To require rural ILECs to redefine their service areas in another way such as using census blocks, block groups or tracks or using counties would greatly alter their scope and scale and the social contract that exists today and thus jeopardize the ability to continue to have a POLR in many high-cost areas. Further, because rate-of-return regulation properly apportions costs of serving the entire study area – from the highest to lowest cost-to-serve areas – any mandates for these companies to disaggregate their costs would be much more burdensome than any benefits that would be derived, and would disadvantage most those that USF support was established to assist.

B. Benefits Derived from Efficient Operations and Quality of Service

The assertion in the National Broadband Plan and the NOI/NPRM that rate-of-return regulated companies are inherently inefficient is completely inaccurate. Rate-of-return regulated companies are only given the opportunity to attain a specified rate of return. There is no guarantee that a carrier will accomplish its financial goals or achieve its permissible rate of return without prudent management and efficient business decisions that are stringently reviewed by rate-of-return regulated companies' lenders, members, owners, and governing boards. As an Alabama cooperative, all operations are overseen by the Board of Trustees which is comprised of member-subscribers and ultimately by the member-subscribers themselves to whom the Board and the Cooperative staff are accountable.

Further, as noted above, FTC relies upon funding from lending institutions in order to build and maintain its network infrastructure. As with any loan arrangement, FTC must prove its financial viability and efficiency of operations to assure the lending institution that the loan will be repaid in accord with the loan covenant. Additionally, FTC is an essential member of the communities where it serves with keen desire and interest in operating efficiently <u>and</u> providing high quality services for the betterment of their member-subscribers who are also its friends and neighbors.

C. Benefits from Investment in Broadband Deployment

FTC asserts that transitions away from rate-of-return regulation to price cap regulations should continue to be voluntary. It is blatantly evident that price caps regulated companies have not delivered investments in broadband to rural America. On the contrary, the authorized rate-of-return of 11.25 percent for rate of return carriers is sufficient to address the real risks that are inherent with deploying quality telecom and broadband infrastructure in rural areas. As noted above, rate of return companies have many reasons to operate efficiently as has been evidenced by FTC's efficient operations.

To impose an alternate pricing regime on rate of return rural ILECs that forces the companies to migrate to a regime that does not allow for the risks inherent with deploying telecom and broadband infrastructure in high cost areas would be catastrophic.

IV. The FCC Has Valid Alternatives

FTC strongly asserts that the current USF support mechanism is accomplishing the objectives that the NBP sets forth for universal access to broadband and can be used to directly fund broadband deployment with modifications. The baby does not have to be thrown out with the bathwater. For example, while FTC understands the FCC's grave concern regarding the tremendous rise in the federal universal service contribution factor, the Cooperative is baffled as to why the FCC looks first to reducing the support that is currently being used to deploy both telecom and broadband in rural areas rather than taking the critical step of expanding the contribution base. It seems logical that this step must be done – and done immediately - in order to accomplish the goals of both expanding broadband to unserved areas and ensuring that funding continues to flow where it is needed in under-served areas.

Another example is that if the FCC believes that rate of return companies are operating inefficiently, it can modify the existing rate-of-return regime to provide incentives to promote this behavior. As indicated above, FTC has already made significant cuts in operating expenses and many other rate of return companies have done likewise for similar reasons. If the Commission believes that there are some that do not operate efficiently, the Commission can modify its existing rate of return rules to create such incentives.

A third example would be for the FCC to address the problem of unserved areas in price cap service areas with a solution that is best in those situations while allowing those areas where rate of return ILECs have deployed broadband to continue under a rate of return regime. At a time when the National Broadband Plan is being touted as the vehicle through which a higher percentage of all Americans will gain access to the digital information super highway, it is disturbing that the FCC fails to recognize how much progress has already been made, particularly with respect to rural areas served by rate of return ILECs, towards deploying the infrastructure necessary to provide consumers in unserved and underserved parts of our country with access to high speed broadband services. FTC urges the FCC to maintain the rate of return regulation for those companies that have been under this regime and allow them to continue to accomplish the goal of ubiquitous telecommunications and high speed data service to consumers in rural America and not adopt a "one-size-fits-all" approach in seeking to address unserved areas in areas served by price cap companies.

V. Conclusion

In summary, FTC provides an excellent example of an organization that has, through an unwavering commitment to its central mission, found a way to leverage the long-standing universal support mechanisms available to it in a manner that has enabled FTC, as a part of its overarching business model, to make great strides in bringing world-class broadband technology to its entire service territory all the while retaining and delivering upon its Provider of Last Resort Obligations. FTC's success provides a prime example of government helping people help themselves in an economically prudent and efficient manner.[7] A sound and clear U. S. public policy of universal service support has been and will likely continue to be essential in extending success stories such as these. FTC begs the Commission to learn from such examples and seek ways to continue rather than end successful public/private compacts with such a stellar track record of delivering upon the well reasoned public policy goals of universal service to all Americans.

Respectfully Submitted,

July 12, 2010

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[7] FTC members currently provide in excess of 70% of the organization's required capital through their patronage/equity stake. Debt capital is provided largely through the USDA, Rural Utilities Service, the majority of which is priced at the U. S. Treasury's cost of funds.