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

NOTICE OF INQUIRY AND NOTICE OF PROPOSED RULEMAKING

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I. SUMMARY

WGA supports the Commission's goal to modify Universal Service Fund ("USF") programs to include the cost of providing broadband services in rural America. Upon release of the Commission's National Broadband Plan and the Commission's NOI and NPRM, members of the rural telecommunications industry (managers, engineers and consultants) have been scrambling to respond to the Commissions comments but find themselves at a disadvantage because the proposed NBPM methodologies had not previously been introduced and discussed with rural telephone companies. The proposals included in the Commission's National Broadband Plan ("NBP") contain ambiguous terms and unproven financial models that attempt to indicate the cost associated with the provision of broadband services in rural America. WGA does not support the use of financial models to determine the level of support funding for broadband services because models contain arbitrary cost assumptions that may or may not produce realistic results for rural America.

WGA supports the use of existing legacy USF programs to fund broadband services in rural America. The legacy USF programs, combined with rate-of-return regulation, have a proven track record of bringing advanced services to consumers located in high-cost areas of rural America and can be used to address the broadband availability gap referenced in the NBP.

To address the broadband availability gap in rural America, WGA proposes that the Commission consider adopting the procedures outlined in the Notice of Fund Availability ("NOFA") released under the American Recovery and Reinvestment Act of 2009 ("ARRA"). These procedures addressed the application process for broadband

stimulus grants and loans to provide broadband services in rural America that were based on real network costs derived from detailed engineering studies. Fewer changes would be required to existing statutes and regulations to incorporate these procedures which include the recognition of broadband services as supported services, the designation of unserved areas as areas available for USF support and modifying the revenue base for USF funding to include broadband and information service billings to consumers.

If the Commission proceeds with its proposal to phase out legacy USF programs and redirect existing USF to designated unserved broadband areas, the economic impact would be devastating to existing rural telecommunications and broadband service providers and the rural communities where they serve. Selected financial statistics for the combined operations of eleven rural ILECs presented in these comments indicate that free cash flows resulting from the Commission's NBP proposals will turn negative in the year 2014 and will most likely lead to insolvency for many of these rural service providers.

In certain instances, WGA defers to the comments of others in matters relating to the reliability of cost model methodologies and practices discussed in the National Broadband Plan Model and to legal conclusions as to whether the proposed changes to USF policy objectives, rules and regulations outlined in the NBP comply with Section 254 of the Telecommunications Act.

II. INTRODUCTION

Warinner, Gesinger & Associates, LLC ("WGA") submits these comments in response to the Federal Communications Commission's ("FCC") Notice of Inquiry and

Notice of Proposed Rulemaking, FCC 10-58, "In the Matter of Connect America Fund", WC Docket No, 10-90, "A National Broadband Plan for Our Future", GN Docket No. 09-51, and "High-Cost Universal Service Support", WC Docket 05-337 ("Order").

The above referenced Notice of Inquiry ("NOI") and Notice of Proposed Rulemaking ("NPRM") is intended to be the first in a series of proceedings to implement the FCC's vision for comprehensive reform of the $9 billion Universal Service Fund ("USF") and the intercarrier compensation ("ICC") system to encourage targeted investment in broadband infrastructure and emphasize the importance of broadband to the future of America.[1] The FCC's vision for comprehensive reform of Universal Service Funds ("USF") was delivered to Congress on March 16, 2010 in a document titled the "National Broadband Plan" ("NBP").

The FCC released its newly proposed NBP to address comprehensive reforms for broadband services offered in America and to address the broadband availability gap that exists today for approximately seven million households in rural America that do not have access to terrestrial broadband infrastructure capable of meeting the FCC's target broadband service definition.[2] The FCC asserts in the NBP that a broadband availability gap exists in rural America because no reasonable business case can be established to offer broadband services in areas with low population densities at a price that will allow

[1] *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, Notice of Inquiry and Notice of Proposed Rulemaking, FCC 10-58 (rel April 21, 2010), para. 1 and 2.

[2] *Federal Communications Commission, Connecting America: The National Broadband Plan*, (rel March 16, 2010) (National Broadband Plan) at 136.

carriers the opportunity to recover its cost of providing service plus a reasonable return on its investment.[3]

III. WGA SUPPORTS THE COMMISSION'S EFFORTS TO MODIFY EXISTING USF PROGRAMS TO ADDRESS FUNDING FOR BROADBAND APPLICATIONS AND SERVICES.

WGA believes that it is appropriate to research and develop support programs that are designed for use with broadband applications and services. Broadband applications and services are quickly being adopted as the primary sources for communication, commerce, social networking and entertainment across both urban and rural America. Communities that do not currently have access to broadband services are searching for providers that will bring broadband networks to their areas so they will not be deprived of the economic, social and educational advantages that accompany digital access to locations throughout the world.

Unfortunately, the cost of building and maintaining broadband networks in rural areas cannot always be economically justified without the aid of universal service support and not all rural areas qualify for support under current USF rules and regulations. This is the primary reason for the broadband availability gap alluded to by the Commission in the NBP and is the primary reason for the need to reform existing USF programs to address new national broadband initiatives. WGA believes that all high-cost areas should qualify for some form of support from USF programs if an economic business case cannot justify the implementation of broadband services in that area. WGA believes that

[3] FCC 10-58, para. 11.

some of the reforms proposed in the Commission's NBP represent a good start at addressing broadband reform initiatives.

IV. LEGACY USF PROGRAMS HAVE BEEN SUCCESSFUL IN PROVIDING SUPPORT FOR THE IMPLEMENTATION OF MULTI-USE NETWORKS IN RURAL AREAS.

Most small rural incumbent local exchange carriers (ILECs) have already implemented broadband services within their study areas, or are in the process of completing broadband infrastructure projects. According to the publication *Trends 2009* published by the National Exchange Carrier Association ("NECA"), rural telephone companies participating in NECA's interstate tariff have made broadband services available to approximately 92 percent of their estimated 4.7 million access lines in rural America using multiple technologies such as Digital Subscriber Line (DSL), cable modem through a cable affiliate, and wireless.[4] These rural service areas cover close to 1.3 million square miles representing 37 percent of total U.S. land mass. This availability rate is commensurate with the broadband availability rate of approximately 95 percent for the remainder of U.S access lines served by wireline carriers and exceeds the estimated 10 percent broadband penetration rate for wireless connections.[5]

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[4] *Trends 2009*, A Report on Rural Telecom Technology, National Exchange Carrier Association (rel December 2009), pgs. 3 and 7.

[5] Broadband wireless penetration was determined by dividing 28.9 million high-speed mobile wireless connections by 285.6 million total wireless subscriber connections in 2009. Total 2009 wireless subscriber connections were determined from information published by CTIA under US Wireless Quick Facts through its web site at www.ctia.org/advocacy/research/index.cfm. High-speed mobile wireless connections were estimated from amounts presented in the FCC's report, High-Speed Services for Internet Access: Status as of December 31, 2008, (rel February 2010). For the year 2008, the report presents 25.117 million high-speed mobile wireless connections which were grown by an estimated 15 percent for the year 2009.

The costs of maintaining these broadband networks are being supported indirectly by existing universal service programs that generally provide 50 percent or more of the recovery of loop costs in rural service areas. To this end, rural ILECs believe several key objectives established for broadband services in the NBP are already being achieved under existing universal service support programs. Therefore, only minimal changes are necessary to modify existing universal service programs to address the FCC's broadband initiatives outlined in its NBP. These initiatives address both broadband availability in unserved areas and recommendations for targeted upload and download speeds as defined by the FCC in the NBP. ILECs understand the importance of broadband availability in their communities and currently make broadband service available over the vast majority of their access lines. However, ILECs can only continue to maintain these broadband networks with continued support from USF programs.

V. LEGACY USF PROGRAMS CAN BE REVISED TO SPECIFICALLY ADDRESS FCC BROADBAND INITIATIVES.

Rather than replace the legacy USF programs, WGA urges the Commission to take a much simpler approach and revise the legacy USF programs to address its key broadband initiatives. The reforms proposed by the Commission in the NBP represent rather drastic and unproven approaches to replace a USF program that has a proven and successful track record based on customer penetration data. Moreover, several of the cost model approaches proposed in the NBP were previously reviewed by the Commission for use in rural study areas but could not be adopted because model assumptions could not be supported from actual data for rural areas.

With the necessary revisions, the legacy USF programs would enable existing ILECs and other service providers to implement broadband networks and provide broadband services in study areas that are currently designated as "unserved" assuming appropriate incentives are put into place to support the cost of building and operating broadband networks in those areas.

VI. THE BROADBAND AVAILABILITY GAP CAN BE SUCCESSFULLY ADDRESSED UNDER EXISTING USF PROGRAMS WITH FEWER CHANGES THAN THOSE PROPOSED IN THE NBP.

Addressing the "unserved" broadband areas can be achieved through an open broadband application process similar to the process recently conducted for the award of broadband stimulus grants and loans under the American Recovery and Reinvestment Act of 2009 ("ARRA"). Under the ARRA procedures, service providers were given the opportunity to file applications for broadband stimulus grants and loans for the deployment of broadband networks and services in areas that were deemed "unserved" or "underserved." In most instances, these applications were filed for areas where economic business cases could not justify the implementation of broadband services. The broadband service applications filed under ARRA were judged on a number of factors including the applicant's qualifications and experience dealing with broadband services, efficiency of network technology and bandwidth deployment capabilities, estimated project costs and project timelines, and overall financial viability of the company's application. ARRA broadband applications were prepared using actual cost modeling based on the areas targeted for broadband deployment and included certified engineering

estimates of proposed construction costs and project timelines. Operating revenues and expenses were also estimated based on actual experience under existing rules and regulations and reflected estimated USF support from existing USF programs. Round 1 ARRA applications were filed in August of 2009. The winning applications selected from Round 1 applicants were announced in late 2009 and early 2010 and those applicants are expected to begin construction of the designated broadband networks in 2010 with targeted completion dates of 2011 and 2012.

This is a far easier and timelier approach to addressing the Commission's existing broadband availability gap than the approach proposed in the NBP using unproven forward-looking cost models and unknown support mechanisms subject to arbitrary assumptions and adverse economic impacts.

The changes to existing rules and regulations necessary to provide economic incentives for the build out and implementation of broadband services in currently unserved high-cost areas are: (1) the designation of broadband service as a supported service for USF funding; (2) the designation of any FCC targeted "unserved" area as a newly defined broadband study area that will qualify for cost based recovery of support from existing USF programs; (3) determining the size of the USF fund necessary to complete the NBP objectives; and (4) modifying the revenue base for USF funding to include both broadband and information services.

Since many of these existing "unserved" areas are located within the existing study areas of the former regional Bell operating companies ("RBOCs"), and since RBOC study areas have not historically qualified for high-cost support under existing USF rules and regulations, many of the FCC designated "unserved" broadband areas

would not qualify for cost-based USF support due to the "identical support provisions" contained in existing USF rules and regulations. That can easily be modified with a simple change in study area designation for those unserved areas. As separate study areas, those "unserved" areas may qualify for future support depending on the qualifications of the selected service provider.

With the availability of appropriate financial incentives, these "unserved" areas can then be addressed by existing ILEC and CLEC service providers in an economically efficient market-based broadband application process. The responsibilities for reviewing the ARRA broadband stimulus applications for the award of broadband grants and loans were assigned to existing government affiliated agencies, the Rural Utilities Service ("RUS") and National Telecommunications and Information Administration ("NTIA"). Round 2 ARRA application awards are now being announced for applications filed in March 2010. The turn-around time for these application reviews and award announcements demonstrates the efficiency of the ARRA application process.

VII. THE NBP APPEARS TO INCLUDE FLAWED ASSUMPTIONS ABOUT CURRENT SUPPORT PROGRAMS

WGA believes the FCC is relying on several flawed assumptions to set the framework for reform for existing USF programs. In its background comments, the FCC reiterates that the purpose of high-cost universal service support is to help ensure that consumers have access to telecommunications services in areas where the cost of providing such services would otherwise be prohibitively high.[6] No one disagrees with the stated purpose of existing USF programs. The FCC then recognized that the current

system of high-cost support has achieved considerable success; helping ensure access to affordable voice services in all regions of the nation based on the Commission's most recent report on telephone subscribership released in February 2010.[7] Rural ILECs can attest to this success by pointing out the penetration rates for voice services and both the availability and penetration rates for broadband services in rural areas that are supported directly and indirectly by current USF programs.

However, several arguments raised by the FCC to support its proposed use of a forward-looking economic cost model for USF recovery are somewhat flawed and misleading. In the NOI and NPRM, the FCC states that the types of support a carrier receives today depend on the size and regulatory classification of the carrier, not the characteristics of the area to which support is directed and this does not lead to the provision of support in an economically efficient manner.[8] WGA recognizes that Local Switching Support ("LSS") is dependent on company size; that Interstate Access Support ("IAS") paid to price-cap carriers is not cost based; and that Competitive Local Exchange Carriers ("CLECs") receive USF support based on the support received by the incumbent carrier in the same study area. However, rate-of-return rural ILECs only receive support based on their actual cost of providing supported services and only in the respective service areas that qualify for USF funding. There is nothing in the record to indicate the level of efficiency of existing support provided to rural ILECs under existing support programs or whether recovery of embedded cost is any more or less efficient than forward-looking economic cost in rural areas. For the FCC to automatically assume that forward-looking economic cost will produce a more efficient result than embedded cost

[6] See FCC 10-58, para. 3.

in rural areas is flawed at the outset unless arbitrary measures or standards are included in the forward-looking cost model to achieve a desired result.

Furthermore, many ILEC broadband networks have been built on top of their existing copper networks used for the provision of voice service in an attempt to be economically efficient. The incremental costs of these broadband networks are currently being recovered through broadband access charges to Internet Service Providers ("ISPs") and are not being recovered from USF.

The second and more compelling flaw in the Commission's assumptions for USF reform is that future USF should be redirected primarily to areas that do not have broadband availability today. These areas are mostly comprised of the rural study areas of the former RBOCs who have made economic decisions to invest available capital in their urban areas and wireless technologies instead of their rural service areas. It can be argued that the failure to invest in these rural areas is due to the fact that under incentive regulation, there is no economic gain to be achieved from making additional network investments in these rural areas. Rural ILECs who currently provide broadband services built those broadband networks with both debt and equity financing. The ongoing debt service and operational costs of maintaining the loop portion of the broadband networks are being supported by existing USF programs. As reflected in the rural ILEC financial data compiled by WGA for discussion in these comments, USF support is necessary to keep the majority of ILECs operational and to keep their rural subscribers connected to an enhanced broadband network.

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[7] See FCC 10-58, para. 3.
[8] See FCC 10-58, para. 3.

If USF policy objectives are revised in order to redirect existing USF support to unserved RBOC and mid-size price-cap carrier study areas as proposed in the NBP, then it appears as though the NBP will reward those carriers who previously chose to ignore their rural consumers and punish the rural ILECs who chose to leverage themselves and invest in rural markets. Simply stated, the existing broadband availability gap cannot be fixed by redirecting support from existing ILEC USF programs. The existing broadband availability gap for unserved areas can only be fixed by opening these areas to additional sources of USF support for anyone choosing to serve them in an economically efficient manner. To accomplish this goal, the Commission will have to address the funding mechanisms for all future USF programs to capture a larger base of broadband services for support of its broadband initiatives.

VIII. NATIONAL BROADBAND PLAN MODEL

With the release of Docket FCC 10-58, the FCC is requesting comments relating to three discrete groups of issues addressed in the NBP:[9]

1. Comments on the use of a model as a competitively neutral and efficient tool for helping the FCC to quantify the minimum amount of universal service support necessary to support networks that provide broadband and voice service, such that the contribution burden that ultimately falls on American consumers is limited;

[9] See FCC 10-58, para. 13.

2. Comments on potential approaches to providing such targeted funding on an accelerated basis in order to extend broadband networks in unserved areas, such as a competitive procurement auction; and
3. Comments on specific proposals to cap and cut the legacy high-cost programs and realize savings that can be shifted to targeted investment in broadband infrastructure.

WGA provides the following comments on the three discrete groups of issues addressed in the NBP.

A. <u>Cost Model (para. 14-16)</u>

The first issue to be addressed by the FCC regarding the use of a competitively neutral and efficient model to determine the appropriate amount of support required for the provision of broadband services in high-cost areas relates to the use of some form of forward looking cost proxy model similar in principle and/or methodology to the Hybrid Cost Proxy Model ("HCPM") developed by the FCC to implement access and USF reform for non-rural LECs in 1999.

WGA's initial concerns regarding the use of a proxy model to determine USF support requirements center on four vital issues:

1. That a forward-looking cost model will contain arbitrary assumptions, standards and formulas to achieve a desired economic result contrary to actual operating costs and market conditions;

2. That all interested parties be given an equal opportunity to assess model assumptions, inputs, formulas and revenue impacts in order to minimize economic changes in areas supported by existing USF programs;
3. That the model assumptions, inputs and formulas will need to be continually reviewed and updated to address changes in the market place as broadband technologies and services evolve; and
4. That the Commission's prior record of performing reviews and updates for its previously developed Hybrid Cost Proxy Model has been less than stellar.[10]

Although the Commission has provided a detailed description of its proposed National Broadband Plan Model ("NBPM") methodology in Appendix C of the NOI and NPRM, access to any form of broadband model calculations has not been made available to small rural companies or their consultants. WGA has been unable to review and compare any NBPM calculated results with the actual cost of providing rural broadband services presented with these comments and therefore cannot comment on whether the NBPM provides a useful foundation for calculating support levels for the Connect America Fund ("CAF"). Similarly, WGA is not capable of recommending modifications to the NBPM if the CAF is eventually used to replace all of the legacy high-cost programs.

As a result, WGA is compelled to defer comments on various positions related to the development and use of forward-looking cost models, including the NBPM, and concur with the small company positions included in the joint comments filed by the

[10] See FCC 10-58, para. 7.

National Exchange Carrier Association, Inc. ("NECA"), National Telecommunications Cooperative Association ("NTCA"), Organization for the Promotion and Advancement of Small Telephone Companies ("OPASTCO") and Western Telecommunications Alliance ("WTA").

B. Cost Basis for Support (para. 23-30)

The Commission seeks comment on whether any new CAF support should be based on forward-looking economic costs of an efficient provider rather than on historic embedded costs. The answer to this question is highly dependent on the types and amounts of costs that are used to define an efficient provider. These costs could vary significantly from year to year between technology platforms depending on the stage of evolution of the technology. Would it be appropriate to consider efficiency in terms of the present value of a cost per byte made available by the service provider over an extended period of time? For example, fiber-to-the-home ("FTTH") is a fixed wireline broadband technology that is now capable of delivering bandwidth at speeds greater than 100 Mbps for the next 10 to 20 years. What would be the present value of the cost per byte of providing 100 Mbps of bandwidth over the next 10 to 20 years? Suppose mobile wireless broadband technologies are able to deliver only 10 percent of that capacity over the same time period with network upgrades required every two to four years as broadband wireless technologies evolve over time. How would a forward-looking cost model rate the efficiency of a mobile wireless broadband provider compared to the efficiency of a broadband provider using FTTH for networks to be constructed today? Also, what happens if a mobile wireless broadband technology is deemed more efficient

today using a forward-looking cost model but cannot supply sufficient amounts of bandwidth three to five years from now to meet consumer demand? Do we hop back and forth between technologies based on who has the least cost technology at a specific point in time? Will this allow future USF support programs to be predictable and sustainable?

The NBPM appears to be targeting rural broadband standards to achieve bandwidth speeds based on the use of wireless technologies. The NBPM contains assumptions for estimating forward-looking wireless services using a network that is capable of providing 4 Mbps actual download and 1 Mbps actual upload speeds. Existing wireline network technologies are currently capable of providing bandwidth capabilities much greater than 4 Mbps download and 1 Mbps upload speeds. While these speeds may be adequate to satisfy mobile wireless broadband demand for data, it is not likely that these speeds will satisfy the existing bandwidth requirements for video and other entertainment services and certainly not the bandwidth requirements necessary for high definition and/or three dimensional video and gaming services that some consumers demand now and many more will be demanding in a few years time. The Commission should not model its future efficient network provider standards based on the cost of a wireless network limited to bandwidth capabilities of 4 Mbps download and 1 Mbps upload speeds. This standard will become obsolete before it can be implemented.

By setting the rural bandwidth standard at speeds targeted for wireless applications, WGA is concerned that the Commission will effectively be setting rural cost recovery standards based on wireless technologies as well. The resulting rural USF cost recovery bar may then be set at an artificially low level thereby limiting bandwidth deployment in rural areas and creating a bandwidth divide between urban and rural

consumers. That bandwidth divide will directly conflict with USF policy regulations, goals and objectives that mandate the availability of similar services at similar prices for urban and rural consumers.[11]

C. Expedited Process for Providing Funding to Extend Broadband Networks to Unserved Areas (para. 43-48)

WGA has previously addressed its preferred form of open procurement process for expediting broadband support funding to unserved areas. To expedite funding to unserved areas, WGA recommends that the Commission adopt the procedures established for the review and award of broadband stimulus funding under ARRA. WGA recommends using existing USF programs with modifications necessary to address the additional costs of deploying broadband services in these unserved areas. These procedures have now been used for two rounds of awards of one-time stimulus grants to support the provision of broadband services in designated unserved and underserved rural areas. The methods for scoring applications submitted under ARRA are described in the Notice of Funding Availability ("NOFA") that was published for each round of funding in accordance with ARRA guidelines. The technologies and associated broadband speeds should be reviewed as part of an overall business case for each designated unserved study area. In areas where the incremental cost of additional bandwidth is considered economically efficient, additional broadband speeds should definitely be considered and encouraged. The NOFA guidelines released under ARRA contain both time frames and performance measures to assess the satisfactory completion of projects approved for stimulus grants. WGA recommends that the Commission consider similar processes and

[11] See 47 U.S.C. § 254(b)(3).

procedures to assess the completion of broadband projects awarded to Commission designated unserved broadband areas.

D. Notice of Proposed Rulemaking on Reforms to Current High-Cost Programs – Controlling the Size of the High-Cost Program (para. 51-52)

WGA proposes to continue the use of legacy USF support programs to address unserved broadband areas and does not support capping these programs at existing levels for reasons that will be addressed later in these comments under the caption "Impacts of Proposed Commission Plan to Phase Out Existing USF Support Programs and Redirect Support to Unserved Areas." Instead, WGA recommends that the size of existing legacy USF programs be modifed to recognize the additional funds that will be necessary to build and operate broadband networks in rural areas that are currently designated as "unserved" areas.

Modifying existing USF programs will require changes to existing rules that determine the basis for calculating funding for existing USF programs from end users, local exchange carriers, interexchange carriers and other service providers. USF funding is currently computed on the basis of a percentage of interstate revenues derived from interstate subscriber line charges billed by ILECs to end users, wholesale interstate message, special access and DSL access charges billed by ILECs and CLECs to Interexchange Carriers ("IXCs") and Internet Service Providers ("ISPs"), and retail interstate long distance and private line services billed by IXCs and ISPs to consumers. Unlike the rural ILECs, the former RBOC companies have made an economic decision

not to bill or impute broadband DSL access charges between its network companies and ISP affiliates for the provision of broadband network services to the public so the RBOCs do not contribute to existing USF programs for the provision of broadband services. This would appear to allow the ISP providing broadband internet services in RBOC study areas to get free use of the RBOC network to provide internet service to the public. The revenues generated by affiliated ISPs for the provision of broadband internet service is considered information service revenue and is excluded from interstate revenues used to calculate funding for existing USF programs. WGA believes the majority of areas designated as unserved broadband areas are comprised of rural areas within existing RBOC study areas.

As a result of prior Commission mandated access reforms that shifted revenues from interstate access services to explicit support under existing USF programs, coupled with declining interstate long distance revenues from the shift of interstate calls to wireless service providers and ISPs, the interstate revenue base for calculating USF funding is eroding. This declining interstate revenue base is causing a significant increase in the ratio of support necessary to maintain existing USF programs. Regulators and politicians are targeting this increasing USF support ratio as one of the primary reasons for the need to reform USF. Commission proposals are mainly focused on cutting support funds received by existing beneficiaries and redirecting these funds to unserved broadband areas identified in the NBP. This approach will prove to be a disaster for rural American communities in terms of community development, jobs and education.

E. Support Should not be Limited to One Provider of Broadband per Geographic Area (Second CAF Principle at para. 10)

In response to the second CAF principle proposed by the Commission, WGA believes that support should not automatically be limited to one provider of broadband services per geographic service area. This principle will result in a winner take all approach to implementing broadband services in rural America. While this approach may appear to be economically prudent, it will most likely result in only one broadband option for the customer which can lead to reduced service choices, quality of service issues and slower adoption of new and/or enhanced technologies in future years. WGA also believes that fixed wireline and mobile wireless broadband services are in fact complimentary to one another and should not be pitted against one another in a winner take all broadband policy initiative. In fact, many wireless providers depend heavily on the wireline networks to backhaul their wireless traffic from each tower to the switching centers that switch and monitor traffic as it moves from tower to tower while the customers are traveling across the wireless service area. In the NBP, the FCC discusses a separate Broadband Mobility Fund ("BMF") to provide one-time support for deployment of 3G networks to bring all states to a minimum level of 3G availability.[12] WGA supports the creation of a BMF as a permanent fund apart from existing USF to provide both initial and ongoing support for broadband mobile networks in rural America. Due to bandwidth limitations inherent with existing wireless technologies, it is assumed that there would be different bandwidth requirements in effect for wireline and mobile broadband services. At the present time, it is not clear whether broadband mobile

technologies can support the total broadband needs of consumers in rural America. Nonetheless, mobile broadband can provide a robust redundant network for communications and data transmission in times of national and local emergencies and in the case of service outages by wireline providers. Contrary to the FCC proposal in the NBP,[13] the BMF should not be created with funds shifted from existing high-cost programs, but should be funded in parallel with funds required to support existing high-cost programs.

F. <u>What Geographic Areas Should Be Used to Determine USF Support (para, 41-42)</u>

WGA agrees that the eligibility criteria for obtaining broadband support be company and technology agnostic in accordance with the third principle of the CAF. However, more definition is needed within this principle to put carriers on a level playing field for the eligibility of USF support. For example, ILECs who receive support from existing high-cost programs have been required to provide supported services throughout entire study areas (that have been historically defined by regulators) subject to carrier of last resort ("COLR") obligations. Under COLR, ILECs are required to provide services to all customers within their respective study areas regardless of the customer's location or cost of providing supported services. COLR obligations have caused significant increases in the cost of providing services in rural ILEC study areas and these costs have historically been recovered from revenues determined under rate-of-return regulation with assistance provided from existing USF programs. Rate-of return regulation and

[12] *Federal Communications Commission, Connecting America: The National Broadband Plan*, (rel March 16, 2010) (National Broadband Plan) at 144.

USF support provide an added safeguard for cost recovery by ILECs operating with COLR obligations. On the other hand, CLECs and other alternative broadband providers have opted to serve only the lower cost customers within the towns located in rural America. They have not provided services to the higher cost customers located on farms or in the more isolated areas outside the boundaries of the rural towns. RBOC and other mid-size price-cap carriers have made similar choices not to provide broadband services in their rural areas, which supports the rural ILECs position that incentive compensation methodologies using price caps have failed the consumers in RBOC and mid-size price-cap carrier rural study areas. For these reasons, the service area boundaries designated for USF support must be determined similarly for ILEC and CLEC service providers in order to maintain a level playing field for eligibility for USF support in rural areas and to guarantee that all rural consumers have the opportunity to receive reasonably comparable services as consumers in urban areas.[14]

IX. IMPACTS OF PROPOSED PLAN TO PHASE OUT EXISTING USF SUPPORT PROGRAMS AND REDIRECT SUPPORT TO UNSERVED AREAS

The following comments are directed in response to a statement in the NOI at para. 53 which reads:

> "To the extent that any commenter believes that these proposals, or the proposal to cap legacy high-cost support, would negatively affect affordable voice services for consumers today, we would encourage such a commenter to identify all assumptions and to provide data, including information on network investment plans over the next five years and free cash flows, to support that position."

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[13] See *National Broadband Plan* at 145.
[14] See 47 U.S.C. § 254(b)(3).

WGA provides the following comments to demonstrate how the Commission's proposed changes to legacy USF programs would negatively affect affordable voice and broadband services currently provided in rural areas. The following comments contain financial documentation that indicates the reduction in operating revenues and cash flows that would result from the Commission's proposals to eliminate existing USF programs without providing sufficient replacement support to protect the financial viability of existing rural telecommunications and broadband service providers in rural America.

A. Background

The following financial documentation and supporting exhibits reflect the combined operations of eleven rural ILECs from various regions of rural America. All eleven ILEC study areas are designated rural study areas under current FCC rules. As of December 31, 2009, the eleven rural ILECs represented in the financial information presented herein serve approximately 41,704 single-party residential, single-line and multi-line business access lines. The companies range in size from 330 to 13,800 access lines and employ approximately 295 people. The ILECs collectively serve 1,858 life-line customers in Alabama, Kansas, Kentucky, Missouri, Nebraska and Washington. The ILECs offer services including wireline voice, long distance, computer repair, network consulting, and broadband in varying levels of capacity. Some rural ILECs offer resold wireless services to meet consumer demand in their study areas. As of July 10, 2010, three of the ILECs were awarded broadband stimulus funds in Round 1 and 2 under the

ARRA. Several of the ILECs completed fiber projects in 2009 and will not receive HCL support on the related fiber investments until 2011.

Most of the ILECs utilize soft switch technologies, are Communication Assistance to Law Enforcement Act ("CALEA") compliant, and all meet every one of the requirements for an Eligible Telecommunications Carrier ("ETC"), and all have COLR obligations in their respective study areas. The ILECs are responsive to the needs of rural customers and take pride in providing quality voice and data services and strive to exceed the expectations of their customers.

The financial information presented herein is based on forecasts supplied to NECA and, where applicable, broadband stimulus applications submitted under the ARRA. When the ILECs applied for the stimulus funds, the business cases and related supporting financial data were prepared based on current FCC rules and regulations, including the continuation of legacy USF support. However, the HCL support revenues were modified in the financial information presented with WGA's comments to reflect the impact of the change in National Average Cost per Loop ("NACPL") released by NECA for the years 2010 through 2014. The projected financial information from the above sources reflects the baseline[15] amounts presented in the financial impact analysis that follows. The baseline amounts were then adjusted to determine the impact of the proposed revenue changes as outlined in the NOI for the NBP.

[15] Baseline represents projected financial information based on existing FCC rules and legacy USF support mechanisms which is the manner in which ILECs prepared information for loans, financial projections for shareholders, and the stimulus applications. Generally this method is considered "Business as Usual".

B. Revenue Sources

For the year ended December 31, 2009, the ILECs received revenues from the following sources: end user customers, including Local Services, End User Common Line ("EUCL") Charges, Federal Universal Service Charges ("FUSC"), state USF surcharges, internet services, network access billed to IXCs; retail long distance, miscellaneous revenue, state USF, and federal USF which includes LSS, Interstate Common Line Support ("ICLS"), and High Cost Loop Support ("HCLS"). The EUCL, LSS, and ICLS support amounts are part of interstate revenue requirement.

Exhibit I, "*2009 Monthly Revenue Source per Line*" provides the average revenue percentage per source for the eleven rural ILECs. The average percentage of monthly revenue per line from the above sources is based on 41,704 access lines in service at December 31, 2009. The percentages are as follows: end user 26%; network access 19%; long distance and miscellaneous 5%, state USF 8%, and federal USF 42%. Federal USF calculations include the explicit support mechanisms of ICLS, LSS and HCL. Total state and federal USF represents approximately 50% of the ILEC's monthly revenue per line.

Exhibit I also shows the effect of the NBP's proposed phase-out of legacy support programs to the year 2020. WGA has projected the annual phase down of federal USF support and both state and interstate minute-of-use access revenues at 10% per year, or 50% by 2015. The data for 2015 represents the midpoint in the FCC's proposal to eliminate minute-of-use charges and USF support by the year 2020. The analysis also assumes that access lines will decrease by approximately 14%, to 35,738 by 2015. The impact of the NBP's proposed changes in existing revenue sources is anticipated to

produce the following average percentages of monthly revenue per line: end user 26%; network access 9%; long distance and miscellaneous 5%; state USF 7%; and federal USF 19%. State and federal USF support is anticipated to be 26% of the ILECs' monthly revenue. The 2015 revenue shortfall between the baseline and the impact of the NBP is 34% of the ILECs' monthly revenue per line. Support for the revenue shortfall will be required from unknown sources in order for the rural ILECs to generate sufficient revenues to continue providong the quality voice and data services that are currently being provided to their rural customers.

Exhibit II, "*Comparison of Current ICLS Projection versus Frozen at 2010 Levels per Line*" presents a comparison of ICLS baseline revenues and projected ICLS amounts frozen at the 2010 levels per line as proposed in the NBP. ICLS represents the recovery of interstate network loop costs that are fixed in nature and therefore incurred even when access lines are lost. As access lines decrease, less subscriber line charges are applied to the reduced number of lines requiring an increase in ICLS support in order for total study area ICLS costs to be fully recovered. Currently, the ILECs have projected $9,375,047 of ICLS for 2010 reflecting an average of $231.96 per line. Exhibit II shows that as access lines decrease, the disparity between the baseline ICLS revenue amounts required to recover loop costs and the ICLS revenues from proposed frozen ICLS per line support will grow to $3,098,059 by 2016. This shortfall in ICLS revenues will need to be recovered from an unknown support replacement mechanism to enable the companies to recover their actual cost of provisioning loops to rural subscribers.

C. Benchmark End User Rates

The benchmark rate end user revenues were computed to be $59.86 per line based on 2010 lines and assuming that 40,417 lines subscribe to existing local, long distance, and internet. The AT&T rate of $59.65 was also based on these same assumptions. Sprint's rate of $69.24 is a blended rate.

Exhibit III, "*Monthly Revenue Shortfall Covering Expenses at Comparable Rural/Urban End User Benchmark Rates*", provides a comparison of the average benchmark monthly ILEC end user revenue amount of $59.86 to an AT&T urban wire-line amount of $59.65 and an actual Sprint wireless amount of $69.24. The ILECs total company expenses per line per month (excluding the impact of special access and miscellaneous revenue) for the year 2010 amount to $120.75. The monthly expense per line that would not be recovered in 2010 from end user revenues would be $60.89 at the ILEC's revenue per line rate; $61.10 at the urban wire-line rate; and $51.51 at the wireless rate. This shortfall does not include an amount for return on investment.

The information provided in Exhibit III demonstrates that the ILEC's end user rates, as well as those of a comparable urban wireline rate and a comparable wireless rate, do not generate sufficient revenue from local, broadband and long distance subscribers to provide quality services in the rural ILEC's serving area.

D. Investments for Broadband

Exhibit IV, "*Projected Net Regulated Investment*", provides anticipated net investments from existing and proposed capital expenditures, including plant to be constructed using funds from the RUS loan portion of the ARRA stimulus loan/grant

awards. This Exhibit demonstrates that the construction cycle of the eleven rural ILECs varies. Some have completed investments and some have projected capital investments for 2010, 2011 and 2013.

The decisions to make capital investments were based on anticipated revenues from existing FCC approved settlements, legacy USF support mechanisms, and existing minute-of-use access charges. The ILEC capital expenditure budgets, in many cases, are largely dependent on RUS loans, and more recently, from loans in 2010 associated with stimulus awards under the ARRA. The financial information submitted for grant and loan approval by RUS and for grant approval by NTIA included projected amounts for HCL, LSS and ICLS under the legacy USF programs. At the time of the applications, the FCC's proposals for changing the USF landscape had not been published and, therefore, were not considered in the financial business cases.

E. Projections of High Cost Loop Support

Exhibit V, *"Projected High Cost Loop Support"*, provides a comparison of HCL support using WGA's projected NACPL, the HCL support using NECA's NACPL, and the amount of HCL support if frozen at 2010 levels per line. WGA estimated the NACPL at $453.81 for calendar year 2009 (for payment year 2011) and increased this by $32.50 per year through 2014 to $616.31 (for payment year 2016) based on historical trends. In June 2010 NECA released its projected NACPL for 2009 at $464.78, which due to the rural growth factor of negative 3.5%, increases to $743.74 by 2013 (for payment year 2015). The difference in HCL support between WGA's estimated NACPL and NECA's NACPL is ($5,658,554) by 2016. Additionally, information is provided in

Exhibit V to provide a comparison if the FCC were to freeze HCL support per line at the 2010 support level, which is the proposal for ICLS. This scenario is most harmful for those rural ILECs that made investments in 2009 or 2010 and have planned investments for future years.

F. Cash Flow Projection

Exhibit VI, "*Cash Flow Projection*", presents information related to cash flows through 2016 comparing the baseline financial data to the impact of the changes proposed in the NBP. For the baseline financial data for the years 2011 and 2012, the year-over-year decrease in cash flow is directly related to NECA's projected increase in the NACPL. Five of the eleven companies projected an increase in cash flow from the anticipated HCL support in the years 2011 to 2014 for fiber deployments that were made or will be made to provide broadband services.

In order to incorporate the changes proposed in the NBP, the baseline revenues were adjusted as follows: (1) ICLS revenue was based on frozen 2010 support per line (Exhibit II) and, (2) the amounts for HCL support and state and federal access revenues were phased down by 10% per year to reflect the proposed changes outlined in the NBP. The NBP revenue assumptions do not incorporate revenues from the proposed CAF or other unknown sources to replace the lost revenue resulting from decreases in access and legacy USF support revenues.

The NBP's proposals regarding the phase down and elimination of traditional access revenues will have a negative impact on the ILECs who receive 19% of their

revenue from state and federal access and 8% from state USF support. Kansas, Nebraska and Washington currently have state USF support.

Federal access rates are lower than state access rates because the End User Common Line ("EUCL") charge was implemented by the FCC to reduce interstate access charges paid by carriers and to recover a portion of interstate loop costs directly from end users. The EUCL and the ICLS support amount, also implemented by the FCC to remove access charges paid by carriers, allow cost companies to recover their interstate Carrier Common Line ("CCL") revenue requirement through an explicit ICLS support mechanism. If the FCC adopts the NBP proposed elimination of access charges or takes the rate to an arbitrary level of say $0.007, the ILECs will require a replacement revenue source for both interstate and state access revenue in order to maintain their current level of services and meet their debt payment obligations. WGA assumes that the replacement of intrastate access may also require approval by the State Commissions.

Exhibit VI shows that revenue decreases from the proposed NBP changes result in negative cash flow from operations of ($1,837,163) by 2014 and ($9,106,385) by 2016. These numbers indicate that nine of the eleven ILECs analyzed by WGA will be unable to make their debt service payments by 2016 as a result of proposed changes to legacy USF programs in the NBP. This would more than likely force these companies into bankruptcy proceeding causing layoffs and other economic hardships in the rural communities that they serve. Without replacement support mechanisms, these companies would also be forced to abandon their COLR obligations in high-cost areas and impose reductions in service offerings to their remaining customers.

X. CONCLUSION

WGA supports the Commission's attempt to restructure existing USF support programs to address broadband services. WGA does not support the use of financial models and reverse auctions to determine the level of support funding for broadband services because models contain arbitrary cost assumptions that may or may not produce realistic results for rural America. WGA supports the use of legacy USF programs to fund broadband services in FCC designated "unserved" broadband areas of rural America and recommends using an application process similar to the process used for the award of ARRA stimulus grants in 2009 and 2010. WGA believes that this approach has proven to be timely, efficient, and auditable based on supported costs and technologies that will provide a realistic solution for the provision of broadband services to high-cost rural areas. It will also ensure that the carrier most capable of building, operating and maintaining high quality broadband networks in high-cost areas will receive the funds necessary to do so.

Many of the NBP proposals for change to legacy USF programs may be financially disastrous for ILECs that currently provide services in rural high-cost areas. WGA presents the financial documentation to support our opinion that the proposals to cap the legacy high-cost support at 2010 levels, and phase-out legacy high-cost funding and/or per minute-of-use charges by 2020 will negatively affect the affordable and dependable voice and data services for rural ILEC customers. WGA respectively requests that the FCC consider the rural company revenue impacts from its proposed changes to legacy USF programs and access charges as the FCC adopts policies that may cap the legacy high-cost programs or replace it with the CAF. In order to achieve the

universal service goals of reasonably comparable services at affordable rates, the ILECs will require predictable and sufficient USF or CAF funding so they can maintain affordable quality services to their rural customers.

If the proposals, as set forth by the FCC in the Notice of Proposed Rulemaking, are implemented without an adequate and sustainable revenue replacement, many of the ILECs that currently provide service in rural America may no longer be financially viable to continue providing services in rural America. This will only exacerbate the existing broadband availability gap and will require future policy changes to address the financial harms caused by the elimination of legacy USF programs.

The data presented in Exhibits I through VI contain the financial information that supports the comments of WGA. If the FCC desires to review the supporting data behind the Exhibits, this financial data will be provided as restricted information not available to the public due to the sensitive nature of the data.

Respectfully Submitted,

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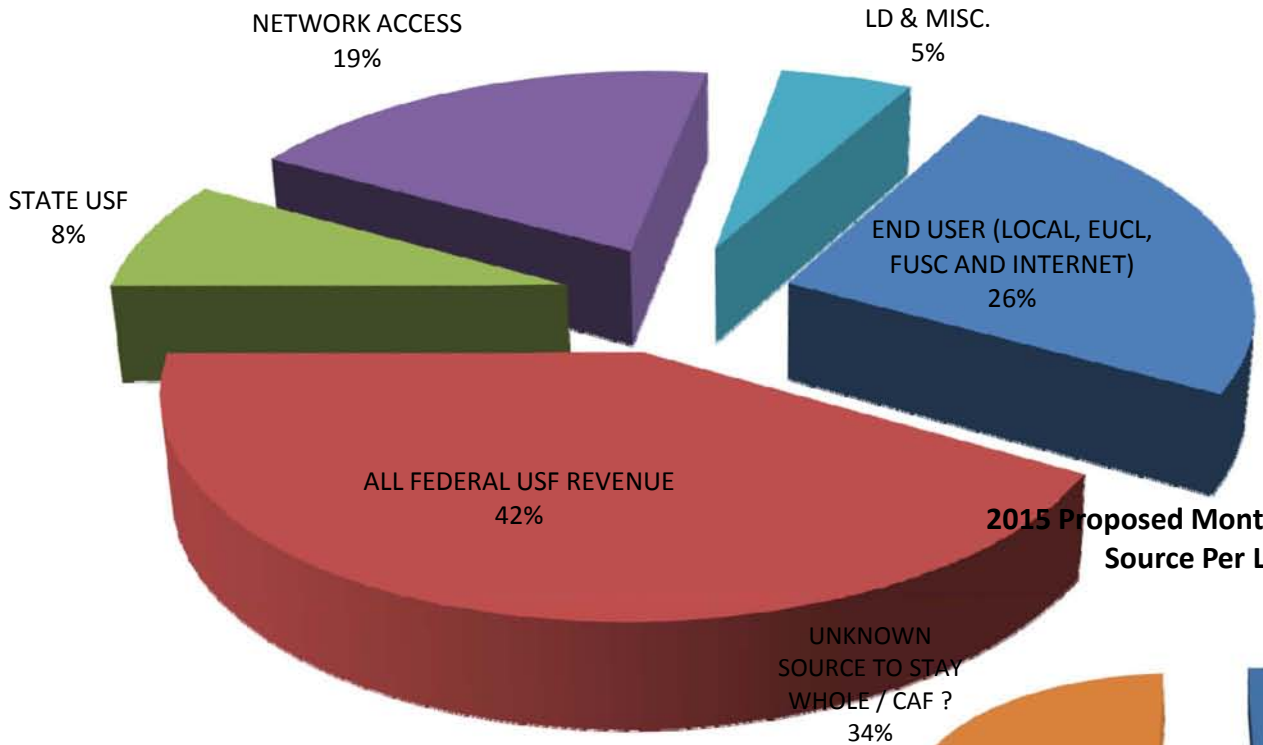
RURAL ILEC STATISTICS
2009 Monthly Revenue Source Per Line



2015 Proposed Monthly Revenue Source Per Line

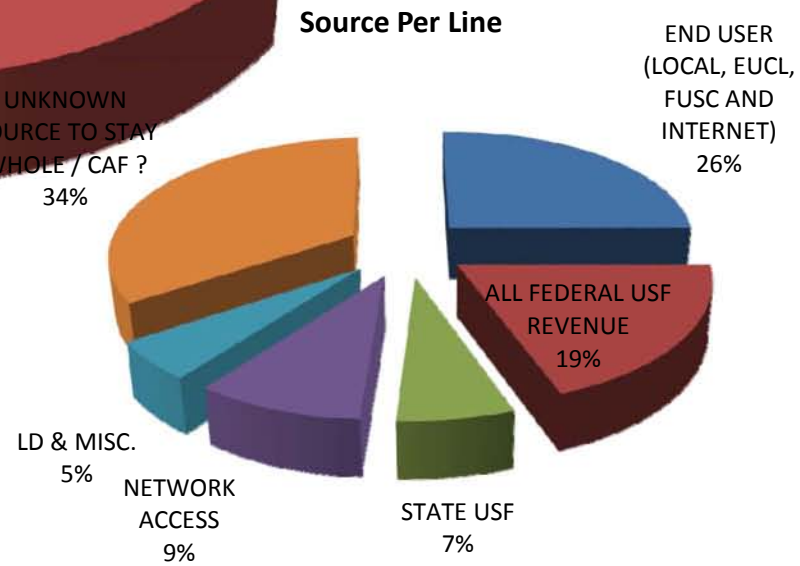
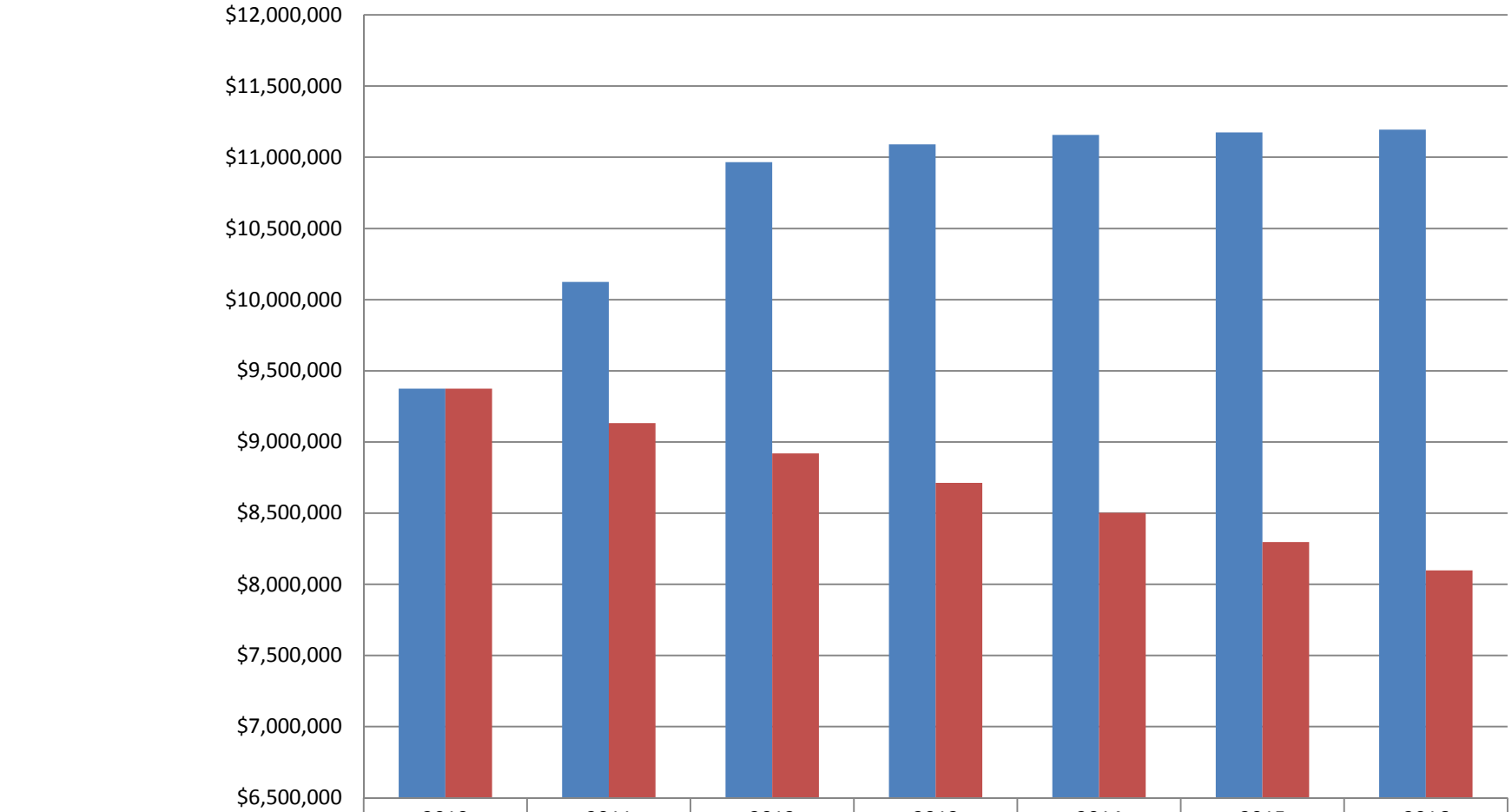


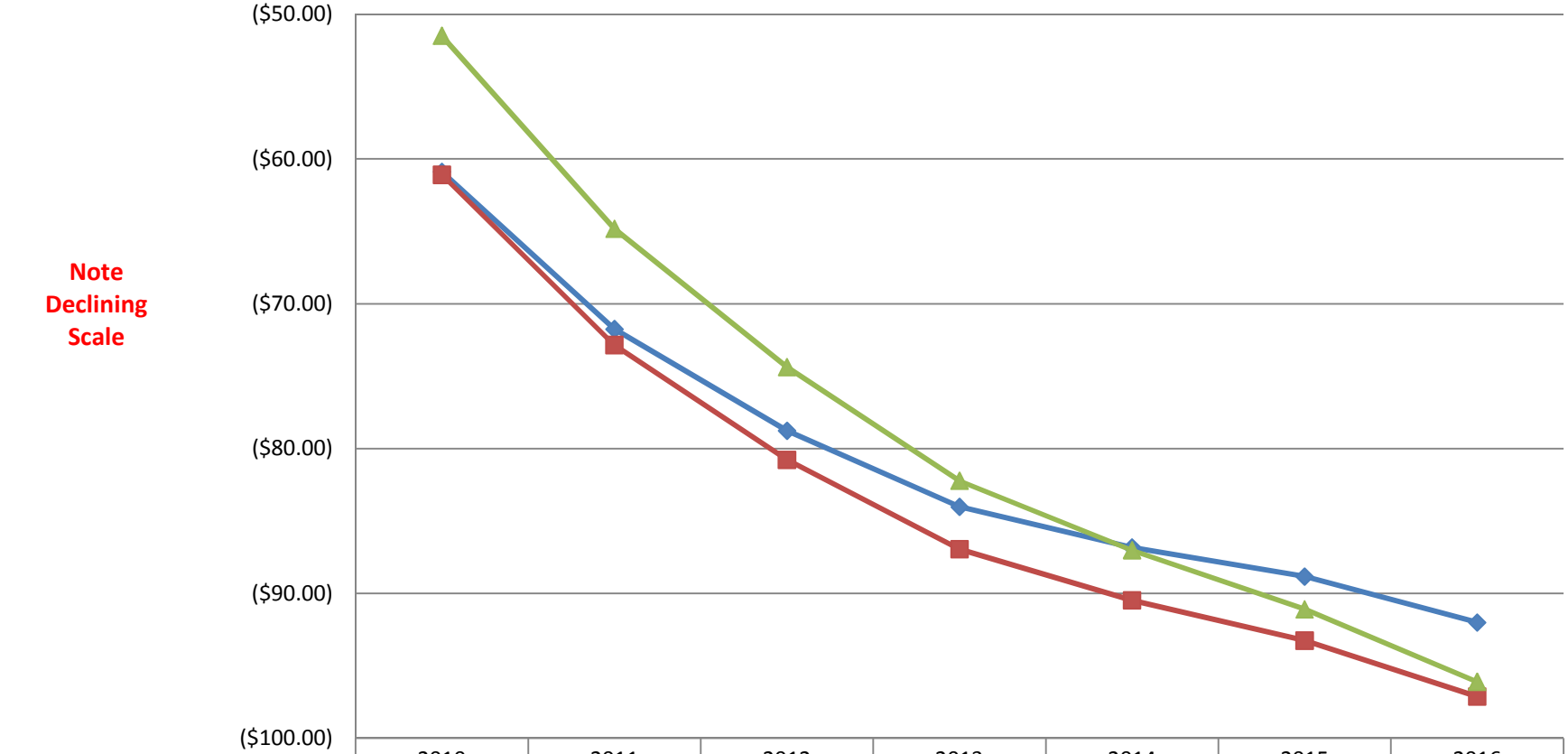
Exhibit II



	2010	2011	2012	2013	2014	2015	2016
Projected ICLS (unfrozen):	9,375,047	10,124,641	10,965,350	11,090,329	11,156,400	11,174,116	11,194,631
ICLS - frozen @ 2010 Per Line Amt	9,375,047	9,132,855	8,919,308	8,711,925	8,502,352	8,297,011	8,096,572

Exhibit III

RURAL ILEC STATISTICS
Monthly Revenue Shortfall from Covering Expenses at Comparable Rural/Urban End User Benchmark Rates
(Does NOT Include and Return on Rate Base)



	2010	2011	2012	2013	2014	2015	2016
AT ILEC'S RATES	$(60.89)	$(71.75)	$(78.77)	$(84.02)	$(86.83)	$(88.83)	$(92.00)
AT AT&T'S RATES	$(61.10)	$(72.85)	$(80.78)	$(86.95)	$(90.48)	$(93.26)	$(97.12)
AT SPRINT'S WIRELESS RATES	$(51.51)	$(64.83)	$(74.38)	$(82.23)	$(87.03)	$(91.11)	$(96.11)

Exhibit IV

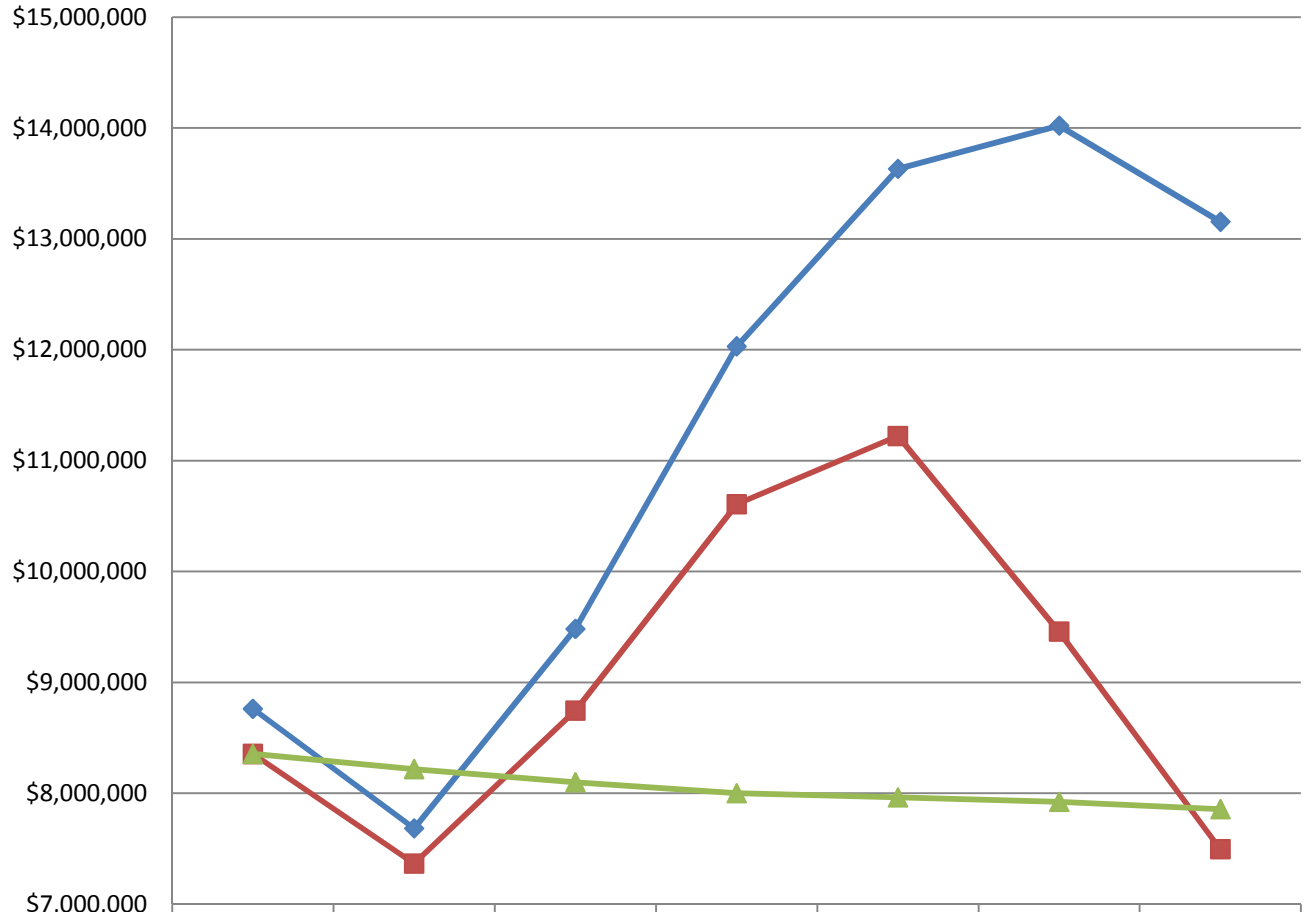
RURAL ILEC STATISTICS

Projected Net Regulated Investment

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Net Regulated Investment	104,555,8	103,229,0	98,840,87	110,398,2	132,877,6	137,083,6	142,889,8	141,766,7	128,420,1	116,218,3

Exhibit V

RURAL ILEC STATISTICS
Projected High Cost Loop Support



	2010	2011	2012	2013	2014	2015	2016
Support @ WGA Projected NACPL	8,762,187	7,685,046	9,482,873	12,030,737	13,631,417	14,020,191	13,154,155
Support @ NECA's Projected NACPL	8,354,862	7,366,888	8,745,008	10,607,124	11,222,305	9,458,278	7,495,601
Support @ 2010 Frozen Amount/Line	8,354,862	8,218,093	8,099,220	8,000,109	7,962,511	7,922,011	7,856,448

Exhibit VI

RURAL ILEC STATISTICS
Cash Flow Projections

	2010	2011	2012	2013	2014	2015	2016
Business as Usual Cash Flow	18,919,164	16,291,688	15,068,041	14,241,559	13,211,934	9,707,225	6,641,367
NBP Cash Flow	18,919,166	13,563,354	7,868,668	2,385,879	(1,837,163)	(5,728,407)	(9,106,385)