

**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
)	

Reply Comments of Pioneer Communications, Inc.

Pioneer Communications, Inc., (“Pioneer”),¹ by its attorneys, hereby submits reply comments in response to comments filed concerning the Notice of Inquiry (“NOI”) and Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceedings.² Initial comments demonstrate that communications technology increasingly depends on high-speed networks and that achieving the National Broadband Plan (“NBP”) goal of delivering broadband to all Americans will benefit both rural America and the country at large. While certain changes to the universal service fund (“USF”) may be needed to fully achieve the goals set out in the NBP, Pioneer agrees with the comments of many rural providers that demonstrate that the drastic

¹ Pioneer Communications, Inc. is a rural rate-of-return incumbent local telecommunications provider serving a large portion of western Kansas. It is headquartered in Ulysses, Kansas, a town with a population of roughly 6,500. The overall subscriber density per square mile of Pioneer’s service area is just under two subscribers per square mile. Pioneer has been connecting rural communities for more than five decades and serves as the carrier of last resort in its service area. Pioneer currently provides voice, data, and broadband telecommunications services to rural consumers, local businesses, hospitals, schools, law enforcement agencies, and other community institutions.

² *In re 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 (April 21, 2010) (“*NBP USF NOI NPRM*”).

changes to USF proposed by the Commission will be destructive to small, rural service providers, harmful to rural Americans, and at odds with the legal underpinnings of universal service.

I. Comments Support Preserving Rate-of-Return Regulation for Small, Rural Carriers, and Show That Eliminating the Legacy USF System Will Result in Decreased Private Lending and Broadband Deployment in Rural Areas

In initial comments, many small, rural carriers noted the successes produced by the current USF system. Although the current USF system is described as a “legacy” program, there is nothing antiquated about the modern networks that the current USF mechanisms have enabled rural rate-of-return (“RoR”) carriers to construct. Under the current universal service framework, many rural RoR carriers are already working to achieve one of the primary goals set out in the NBP, i.e., building out high-speed broadband networks to deliver the benefits of broadband to rural communities.³ The proposed reductions to current levels of ongoing support will harm the ability of rural carriers’ to serve high-cost areas. One commenter estimates that USF reform proposals contained in the NPRM will slowly decrease the revenue of RoR carriers, ultimately resulting in a loss of 40 percent to 65 percent of rural RoR revenues.⁴ Such a drastic downturn in revenue will devastate rural carriers, as well as rural communities and their citizens and businesses.

The mere suggestion of drastic cuts in USF funding is already harming rural carriers, resulting in financial uncertainty and causing such companies to reconsider future financial

³ See Comments of Pioneer Communications, Inc., WC Docket Nos. 10-90 and 05-337, GN Docket No. 09-51 at p.6 (filed July 12, 2010); See also Comments of Farmers Telecommunications Cooperative, Inc.; Comments of Millry Telephone Company.

⁴ Comments of Fred Williamson & Associates, Inc., WC Docket Nos. 10-90 and 05-337, GN 09-51, p.13 (filed July 12, 2010).

viability and investment options. The current USF framework provides reliable support on an ongoing basis. Absent the reliable income stream provided by the USF, rural carriers cannot plan future investments in broadband or continue to provide a high-level of ongoing broadband service.⁵ The current make-up of USF support helps carriers recover the costs sustained from deploying multi-use networks, repaying loans, and maintaining a quality network. Comments filed by many rural telecom industry associations highlight serious concerns expressed by rural companies about their ability to pay back current and future loans if the FCC's proposals are implemented in current form.⁶

The FCC's proposed cuts in high-cost support have created enough financial uncertainty that some rural carriers who have applied for or have been awarded broadband stimulus funding grants are turning them down or considering doing so. For example, one rural carrier has rejected a \$38 million loan awarded under the Rural Utilities Service ("RUS") Broadband Initiatives Program ("BIP").⁷ That loan would have financed a high-speed fiber-to-the-premises project for a large portion of the carrier's service area.⁸

Rural carriers depend on loans from the Department of Agriculture's RUS and private lenders such as CoBank and the Rural Telephone Finance Cooperative ("RTFC") to finance network deployment projects. The terms of these loans, and more importantly the decision to make the loan, are based on the carrier's ability to guarantee on-time repayment. One of the

⁵ See Comments of Millry Telephone Company at p.6 - 7.

⁶ See Comments of the National Exchange Carrier Association, the National Telecommunications Cooperative Association, the Organization for the Promotion and Advancement of Small Telecommunications Companies, the Western Telecommunications Alliance, the Rural Alliance, *et. al.*, WC Docket Nos. 10-90 and 05-337, GN Docket No. 09-51 (filed July 12, 2010).

⁷ Letter from Stuart Polikoff, OPASTCO, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90 and 05-337, GN Docket No. 09-51 (July 28, 2010).

⁸ U.S. Dept. of Agriculture, Broadband Initiatives Program Round One Awards Report, *Connecting Rural America*, p.15 (June 7, 2010).

leading private lenders to rural carriers, CoBank, believes the current USF framework is the most expeditious, flexible and simple way to foster private financing of the rural broadband infrastructure.⁹ It would be unwise for the Commission to force small, rural carriers from RoR, a method that allows carriers to effectively deploy broadband to high-cost areas, to incentive regulation. Incentive regulation rewards profit taking, it does not necessarily reward serving high-cost rural areas.¹⁰

The use of a cost model to estimate the need for support will cause further uncertainty, because “lenders don’t lend against hypothetical costs and they don’t get repaid in hypothetical dollars, so support based on a proxy cost model may not support lending to high-cost areas.”¹¹ Likewise, the unique characteristics of rural areas already require firm business plans, not hypothetical plans, for broadband deployment and upgrades. Without sufficient USF support, rural carriers will be forced to raise the rates paid by their customers and take other extreme measures, all of which will harm broadband deployment and adoption in rural areas.¹²

II. Comments Show the Proposed USF Reforms Do Not Comply with the Telecommunications Act, and the FCC Cannot Rely on its Broadband Assessment Model to Implement USF Reforms Until it Makes the Full Details of the Model Publicly Available as Required by the Administrative Procedure Act

In its initial comments, Pioneer stated that the FCC’s decision to fundamentally dismantle the legacy universal service funding mechanisms violates the governing principles of universal

⁹ See Comments of CoBank, ACB, WC Docket Nos. 10-90 and 05-337, GN Docket No. 09-51 (filed July 12, 2010).

¹⁰ Comments of CoBank at p.9.

¹¹ *Id.* at p. 5.

¹² See Comments of the Oregon Telephone Association and the Washington Independent Telephone Association, WC Docket Nos. 10-90 and 05-337, GN Docket No. 09-51 (filed July 12, 2010) (estimating drastic rate increases that would occur even if only the intercarrier compensation reforms in the NBP were instituted).

service found in the Communications Act of 1934, as amended (“Act”). Many other commenters agree with Pioneer that the proposed USF reforms would violate the core universal service provisions of the Act.¹³ Pioneer reminds the Commission that it can only reform universal service within the confines of the law.

Pioneer is troubled by the FCC’s proposal to base USF reform on its unreleased and unexamined Cost Model. The estimates in the NBP on the amount of funding needed to expand broadband to unserved areas are derived from the FCC’s broadband assessment model (“BAM”). The FCC’s BAM remains a mystery to the telecommunications industry because the full details of the model have not been publicly disclosed. Administrative law unquestionably requires a more transparent publication and opportunity for examination of government models and studies on which a proposed regulatory change relies. In order to be fully transparent, the FCC should release the entire details of its Cost Model and make it subject to public comment and criticism. Even assuming *arguendo* that the FCC has the legal authority to establish the Connect America Fund (“CAF”) based on its secretive Cost Model (which it clearly does not), the FCC’s refusal to release the inputs and source code of its proprietary Cost Model will make any conclusions or regulations based on this Cost Model legally suspect and in violation of the Administrative

¹³ See Comments of Rural Telecommunications Service Providers Coalition, WC Docket Nos. 10-90 and 05-337, GN Docket No. 09-51 (filed July 12, 2010); Comments of the Alaska Telephone Association at 3, Alexicon Telecommunications Consulting at 5, Small Company Committee of the Louisiana Telecommunications Association at 3, National Association of State Utilities Consumer Advocates (“NASUCA”) at 4, Joint Comments of the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Western Telecommunications Alliance, and Rural Alliance at 10, Rural Telecommunications Group at 7, T-Mobile USA, Inc. at 4, and USA Coalition at 4 - 5.

Procedure Act (“APA”).¹⁴ Until the full details are made available, the FCC cannot rely on its cost model to implement USF reform.

III. Conclusion

When the NBP was released, the telecommunications industry congratulated the FCC for crafting a plan that addressed the country’s broadband deficiencies. However, as details of the plan have merged, and as demonstrated by the many initial comments from rural stakeholders, the universal service fund reform proposals have shaken the industry to its core and have galvanized the rural telco industry into opposing the FCC’s ill-advised plan to cap and cut legacy support. Pioneer supports reasonable, common-sense changes to the USF that will result in specific, predictable, and sufficient support to small, rural carriers in recognition of the success already achieved under the current system. In order to achieve its broadband goals, the FCC should work toward common-sense reforms with the entities that know the USF system the best – rural carriers.

Respectfully submitted,

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¹⁴ See Section 7(c) of the Administrative Procedure Act, 60 STAT. 241, 5 U.S.C. 1006(c).