

**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
UNITED STATES CELLULAR CORPORATION**

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SUMMARY

As the Commission begins the work of reshaping its universal service funding mechanisms to support broadband deployment in rural America, two facts stand out in the initial round of comments.

First, numerous commenters urge the Commission to continue to be mindful of its statutory mandate to ground its universal service policies and decisions in pro-competitive principles that promote the efficient use of universal service support to bring affordable broadband services to consumers in rural and high-cost areas.

And, second, there is strong support in the record for U.S. Cellular's position that decisions relating to the sufficiency of universal service support, and relating to the funding mechanisms that will serve best to transition universal service funding to broadband, must ensure that wireless competitive eligible telecommunications carriers are afforded an equitable opportunity to participate in the universal service program and compete for funding.

A number of commenters support the view that the Commission should give equal weight to the goals of competition and universal service as it revises its support mechanisms to promote broadband deployment, and the record also reflects wide agreement with U.S. Cellular's argument that competitive neutrality should serve as a guidepost for the Commission as it reviews its options for prescribing various universal service reform measures.

Various commenters agree that the Commission should avoid capping the size of the overall Fund, and, in fact, should allow the Fund to increase in size over the short-term in order to accommodate and promote the accelerated deployment of broadband networks. Instead of capping the Fund, the Commission should implement efficient support mechanisms that will have the effect of driving down the size of the Fund over time. In this regard, there is support in

the record for U.S. Cellular's suggestion that the Commission should reject proposals to establish a single-winner reverse auction mechanism to award support for broadband networks, and should instead continue its efforts to develop and implement a forward-looking economic cost model.

There is also support in the comments for U.S. Cellular's proposal that the Commission should establish two separate funds that support ongoing investments in both fixed and mobile broadband infrastructure. Under U.S. Cellular's approach, the Commission would predetermine a level of support for fixed broadband services, and for mobile broadband services. The two funds would be designed to give carriers with lower prices, innovative service offerings, or other advantages an incentive to bring broadband services to rural and high-cost markets.

Two state commissions specifically support this type of two-fund approach, arguing that it is important for consumers to have a choice of service providers, and that it is equally important to establish the option of having at least one wireline and one wireless service provider offering broadband services to consumers.

There is considerable criticism in the comments regarding the Commission's proposal to phase down existing universal service support for incumbent carriers and competitive ETCs on different timetables, with competitive ETCs losing their existing support over a five-year period while the phase-down for incumbents would last twice as long.

Numerous commenters support U.S. Cellular's position that the phase-down of support under existing mechanisms for incumbents and competitive ETCs should be accomplished in a competitively equitable manner. Several commenters agree with U.S. Cellular's concern that there should not be a mismatch in the timing of the phase-down of existing support and the initiation of support through the Commission's new funding mechanisms.

Commenters also agree with U.S. Cellular's suggestion that the Commission's new support mechanisms should be designed to target support to high-cost areas that are most in need of support to foster investment in broadband networks. U.S. Cellular argues that this objective can be accomplished by defining service areas through the use of competitively neutral criteria that ensure the efficient use of support in the highest-cost areas, and by requiring the disaggregation of support pursuant to the Commission's current rules.

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United States Cellular Corporation (“U.S. Cellular”), by counsel, hereby submits these Reply Comments, pursuant to the Commission’s Notice of Inquiry and Notice of Proposed Rulemaking in the above-captioned proceeding.¹

I. THE COMMISSION’S GOALS.

A central purpose of the National Broadband Plan² is to define a path leading to substantial increases in the availability of high-speed broadband services for all Americans, and to plot the steps to be taken down this path that will best achieve this expansion in access to advanced broadband services.

This rulemaking is an important component of the Commission’s efforts to progress along the path outlined in the Plan. The reworking of the Commission’s universal service me-

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, 25 FCC Rcd 6657 (2010) (“*NOI*” and “*NPRM*”). Reply comments are due not later than August 11, 2010. *Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support*, 75 Fed. Reg. 26906, May 13, 2010.

² Omnibus Broadband Initiative, FCC, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN (Mar. 16, 2010) (“*NBP*” or “*Plan*”).

chanisms, to make them effective and efficient in the new broadband era, is a task that must be accomplished in order for the Plan to gain the traction necessary to deliver on the promise of making broadband “all it needs to be” for all Americans.³

Comments filed in response to the *NOI* and *NPRM* reflect considerable agreement with U.S. Cellular’s view that the Commission’s restructuring of its universal service mechanisms must be grounded in two objectives: (1) Universal service reform must adhere to and advance the core universal service goals established in the Communications Act of 1934 (“Act”)⁴ and in the Commission’s Orders implementing the 1996 Act, and (2) the Commission’s new support mechanisms must be effective in facilitating the deployment of mobile wireless broadband networks.

A. The Goals for Universal Service Reform.

U.S. Cellular has addressed in its Comments the core goals for Universal Service Fund (“USF” or “Fund”) reform.⁵ The Act establishes the central principle that services provided to consumers in rural areas must be comparable—in features, capabilities, and price—to services available in urban areas. Commenters agree that service comparability is a cornerstone of the statutory framework for universal service. The ILEC Associations, for example, explain that “one of the key universal service objectives of Congress [is] to provide rural and high-cost areas with access to advanced services that are reasonably comparable in quality and price to those offered in urban areas.”⁶

³ *Id.* at xi.

⁴ See Section 254 of the Act, as added by the Telecommunications Act of 1996 (“1996 Act”).

⁵ U.S. Cellular Comments at 3-8.

⁶ National Exchange Carrier Association, National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies, Western Tele-

In addition, T-Mobile has emphasized that any reform measures adopted by the Commission must adhere to the statutory requirement that “consumers in rural and high-cost areas be provided access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”⁷

Significantly, the Commission was recently reminded by Senator Rockefeller of the importance of ensuring that the Commission’s policies are effective in carrying out the comparability principles of the statute:

Section 254 of the Communications Act directs the Federal Communications Commission (FCC) to develop a universal service policy that provides consumers in all regions of the Nation, including those in rural, insular, and high cost areas[,] with access to telecommunications and information services that are reasonably comparable to those services provided in urban areas. The truth is, on this charge, the current system has missed the mark.⁸

Senator Rockefeller’s indictment of the existing universal service system, prompted by the exposure of “a troubling lack of communications facilities” in the aftermath of the April explosion at the Upper Big Branch mine in rural West Virginia,⁹ underscores the fact that the

communications Alliance, and the Rural Alliance (“ILEC Associations”) Comments at 34 (footnote omitted). See CTIA–The Wireless Association® (“CTIA”) Comments at 24 (quoting Chairman Rockefeller Remarks on Universal Service: Transforming the High-Cost Fund for the Broadband Era, Press Release (rel. June 24, 2010)) (noting that, “[i]n 1996, Congress directed the FCC to make sure that comparable services are available at comparable rates—for everyone in this country, no matter who they are, no matter where they live”).

⁷ T-Mobile USA, Inc. (“T-Mobile”), Comments at 4.

⁸ Letter from Sen. John D. Rockefeller IV, Chairman, Comm. on Commerce, Science & Transp., U.S. Senate, to Julius Genachowski, Chairman, FCC (Aug. 2, 2010) (“Senator Rockefeller Letter”) at 2.

⁹ *Id.* at 1.

Commission's reforms must strive to better ensure the comparability of basic telephone services while also extending the principle of comparability to broadband.¹⁰

B. The Goals for Mobile Wireless Broadband.

Providing consumers with affordable access to mobile wireless broadband services must be a guiding factor in the Commission's design of new mechanisms for universal service support. Chairman Genachowski recently captured the essence of why this is important and how the Commission can attain this objective:

When it comes to mobile broadband, our goal is clear: *To benefit all Americans and promote our global competitiveness, the U.S. must have the fastest, most robust, and most extensive mobile broadband networks, and the most innovative mobile broadband marketplace in the world.*

This will be a core goal of our National Broadband Plan.

To meet that goal, our plan is ambitious but straightforward: Accelerate the broad deployment of mobile broadband by moving to recover and reallocate spectrum; update our 20th century spectrum policies to reflect 21st century technologies and opportunities; *remove barriers to broadband buildout, lower the cost of deployment, and promote competition.*¹¹

The Chairman's speech has special relevance today as universal service reforms are considered. The goals articulated by the Chairman can largely be advanced through appropriate reform of the existing universal service mechanisms. Properly structured, these mechanisms can

¹⁰ As U.S. Cellular discusses in these Reply Comments, if the Commission caps or eliminates existing funding without taking adequate steps to transition existing service providers to new support mechanisms that provide appropriate levels of funding, then carriers such as U.S. Cellular will be severely compromised in their efforts to provide services in rural and high-cost areas that are comparable to those available in urban areas. As a recipient of USF support in West Virginia for only a short while and being constrained in its network build out under the wireless cap, U.S. Cellular can confirm the Senator's observations that there is still much work to be done in West Virginia. Senator Rockefeller has correctly drawn attention to the crucial importance of service comparability, and the Commission must, in this rulemaking, prescribe transition processes and new funding mechanisms that are responsive to the concerns raised by Senator Rockefeller.

¹¹ Julius Genachowski, Chairman, FCC, Prepared Remarks at the New America Foundation (Feb. 24, 2010) ("Chairman Genachowski Speech") at 2 (emphasis added).

and should remove barriers to building out broadband in rural areas, lower the cost of deploying network infrastructure, and promote competition for rural citizens.

In this regard, U.S. Cellular agrees with CTIA's conclusion that, as the Commission proceeds with its adoption of universal service reform, the Commission "must measure carefully whether proposed changes to the high cost universal service program will help or impede the twin goals of maintaining and advancing the United States' mobile broadband leadership and fulfilling Section 254's mandate that it ensure access to those 'reasonably comparable' mobile broadband services that consumers demand."¹²

Because of the growing importance of mobile broadband, it is critical that the Commission is successful in revising universal service mechanisms to foster the growth and development of mobile wireless broadband services. The NBP has highlighted the expanding role played by mobile broadband in the communications ecosystem:

Mobile broadband is growing at unprecedented rates. From smartphones to app stores to e-book readers to remote patient monitoring to tracking goods in transit and more, mobile services and technologies are driving innovation and playing an increasingly important role in our lives and our economy. Mobile broadband is the next great challenge and opportunity for the United States. It is a nascent market in which the United States should lead.¹³

While U.S. Cellular agrees with the view expressed in the Plan that spectrum policy is an important lever that government may use to ensure the continuing deployment of mobile broadband,¹⁴ U.S. Cellular also believes that the Commission's universal service policies are an equally important means for ensuring that consumers in rural America benefit from the opportunities provided by mobile broadband.

¹² CTIA Comments at 3 (footnote omitted).

¹³ NBP at 9.

¹⁴ *See id.* at 9-10.

II. UNIVERSAL SERVICE AND COMPETITION.

Numerous commenters agree that the Commission’s universal service reforms, and its redesign of universal service mechanisms to advance and enhance access to broadband services, must further the pro-competitive policies of the Act and adhere to the Commission’s principle of technological and competitive neutrality.

In the following sections, U.S. Cellular discusses the importance of the relationship between universal service and competitive policies, reviews support in the record for its view that the Commission’s new support mechanisms must be designed to work in a competitive environment, and demonstrates that the few commenters who give short shrift to the need for pro-competitive policies, and for adherence to the Commission’s principle of competitive neutrality, do not provide any convincing basis for their positions.

A. Advancing Universal Service and Promoting Competition.

U.S. Cellular has indicated in its Comments that there is an important nexus between the USF program and competition in the telecommunications marketplace, observing that the statute requires that universal service support mechanisms must work in a competitive environment.¹⁵

There also is recognition in the comments that the Commission’s universal service reforms must be designed to work in parallel with the pro-competitive policies enacted by Congress in the 1996 Act. Rural Cellular Association (“RCA”), for example, observes that the statute’s dual goals of promoting both competition and universal service should be given equal

¹⁵ U.S. Cellular Comments at 10 (citing *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 616 (5th Cir. 2000) (“*Alenco*”)).

weight in implementing new universal service support mechanisms and carrying out other universal service reforms.¹⁶

A few commenters question the advisability of ensuring that universal service mechanisms promote competitive entry and advance competitive policies,¹⁷ but these commenters fail to explain how their proposals can be squared with the pro-competitive policies of the Act. On the other hand, U.S. Cellular believes it is self-evident that adopting universal service policies that work within an increasingly competitive marketplace will maximize benefits for consumers in rural and high-cost areas.

While U.S. Cellular opposes those commenters who suggest that the USF program is not meant to promote competition, it also is important to understand that U.S. Cellular is not proposing that universal service support should be disbursed to eligible telecommunications carriers (“ETCs”) operating in areas that already have robust competition without the provision of any USF support. U.S. Cellular believes that the Commission should design funding mechanisms that properly define when an area served by wireless carriers has high-quality services needed to enable robust competition while promoting entry in areas that lack sufficient competition.

To be clear, an area lacks sufficient competition when consumers cannot choose from multiple carriers that allow them to use their phones throughout the area where they live, work, and travel in a manner that is reasonably comparable to that which is available in urban areas. By law, the Commission is required to base universal service rules on the principle that people living in rural and high-cost areas should have access to network quality that is reasonably comparable

¹⁶ RCA Comments at 3. *See* CTIA Comments at 9 (indicating that “[c]onsumers are entitled to USF reforms that are most likely to foster competition, innovation and the efficient provision of broadband service in high-cost areas”).

¹⁷ *See* CenturyLink Comments at 42 (arguing that funding for competitive carriers should be phased out because this support is used to fund duplicative networks and does not promote universal service).

to that which is available in urban areas. It is incorrect to say that there is “robust competition” and therefore no need for high-cost support in rural areas that have substantial dead zones.

Wireless services are an instructive case study demonstrating the relationship between competitive markets and consumer benefits. The following table illustrates the declining per-minute cost of wireless services, from 30 cents per minute in 1998, just after the Commission began implementing the 1996 Act’s universal service provisions, to five and a half cents in 2008, even taking into account the cost of universal service contributions:

Per-Minute Cost of Wireless Service (Including USF Contributions) (1998-2008)

YEAR	(A) AVERAGE REVENUE PER VOICE MINUTE (\$) ^{1/}	(B) CONTRIBUTION FACTOR (%) ^{2/}	(C) PER MINUTE COST OF CONTRIBUTION FACTOR (\$) ^{3/}	TOTAL COST PER MINUTE (\$) (A) + (C)
1998	0.2900	3.1625	0.0092	0.2992
1999	0.2200	3.0143	0.0066	0.2266
2000	0.1800	5.6980	0.0103	0.1903
2001	0.1200	6.8445	0.0082	0.1282
2002	0.1100	7.1625	0.0079	0.1179
2003	0.1000	8.7701	0.0088	0.1088
2004	0.0800	8.8000	0.0079	0.0879
2005	0.0600	10.5500	0.0074	0.0674
2006	0.0600	10.1750	0.0071	0.0671
2007	0.0500	10.9250	0.0055	0.0555
2008	0.0500	11.0750	0.0055	0.0555

^{1/} Data covers the last six months of each year.

^{2/} The listed number for years 1998-2008 is an average of the four quarterly contribution factors.

^{3/} Calculated by multiplying the average revenue per minute (A) by the contribution factor (B)

Sources: FCC, *Trends in Telephone Service*, Table 19.17 (Aug. 2008); *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, Fourteenth Report, FCC 10-81 (rel. May 20, 2010), at para. 190 (Table 19).

There are two significant factors accounting for the fall of mobile wireless pricing shown in the table. First and foremost, the presence of competition in wireless markets has pushed rates

for wireless services downward.¹⁸ The Commission's implementation of universal service policies to foster competitive entry in rural and high-cost areas has paid dividends, because increasingly competitive markets benefit consumers by serving as a check on carrier pricing.

A second driver in lowering mobile wireless pricing has been the significant universal service reforms that substantially reduced the cost of terminating telephone calls. The Interstate Access Support ("IAS") and Interstate Common Line Support ("ICLS") reforms adopted by the Commission have had the effect of moving support from implicit to explicit mechanisms, thus significantly lowering barriers to investment for wireless carriers. Moreover, the burden on consumers to contribute to universal service mechanisms actually *declined* during the period shown in the table because of the explosion of minutes of use as a result of competition and lower pricing.

Prior to this reduction in implicit support, wireless carriers had been reluctant to build cell sites in rural areas because implicit support provided to rural incumbent local exchange carriers ("LECs"), reflected in artificially high carrier access rates, undermined any plausible business case for cell site construction. The combination of lower terminating access charges, and the ability of wireless carriers to access universal service support on a competitively neutral basis, has significantly accelerated investment by wireless carriers. This has increased competition in

¹⁸ While the competitiveness of the wireless marketplace has benefited consumers by driving down the price for wireless services, U.S. Cellular is concerned about recent trends of concentration in the wireless marketplace. See *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 09-66, Fourteenth Report, FCC 10-81 (rel. May 20, 2010) at para. 4 (emphasis added) (noting that "[o]ver the past five years, concentration has increased in the provision of mobile wireless services. The two largest providers, AT&T, Inc. (AT&T) and Verizon Wireless, have 60 percent of both subscribers and revenue, and *continue to gain share* One widely-used measure of industry concentration indicates that *concentration has increased 32 percent since 2003 and 6.5 percent in the most recent year for which data is available.*").

rural America—precisely the goals set forth by Chairman Genachowski in his New America Foundation speech earlier this year. These policies are working and U.S. Cellular believes they can and should be continued.

B. Competitive Neutrality.

U.S. Cellular has explained in its Comments that Sections 214(e) and 254(b) of the Act¹⁹ provide a framework for policies that preserve and advance universal service while also encouraging competition,²⁰ and that the Commission adopted the core principle of competitive neutrality to pursue these statutory goals.²¹ U.S. Cellular has also criticized some of the universal service mechanisms being considered by the Commission because they would not have a competitively neutral effect in the marketplace, and has suggested that the Commission should reject these options as it proceeds with universal service reform.²²

There is strong support in the record for U.S. Cellular’s view that competitive neutrality should serve as a guidepost in determining the advisability of various universal service reform measures. T-Mobile, for example, stresses that “[a]ny plan to ‘refocus universal service funding’ to ‘create a pathway to a more efficient and targeted mechanism for funding broadband,’ must be competitively and technologically neutral[,]”²³ and argues that competitive neutrality cannot be

¹⁹ 47 U.S.C. §§ 214(e), 254(b).

²⁰ U.S. Cellular Comments at 9-10.

²¹ *Id.* at 10.

²² *Id.* at 11-12.

²³ T-Mobile Comments at 4 (footnote omitted) (quoting *NPRM*, 25 FCC Rcd at 6677 (para. 50)). *See* Universal Service for America Coalition (“USA Coalition”) Comments at 9 (footnote omitted) (explaining that “[t]he FCC . . . adopted competitive neutrality as a core universal service principle that is necessary for promoting the twin goals of universal service and competition under the Act”).

achieved if the Commission adopts proposals to phase down competitive ETC support, but not incumbent LEC support, in the near term.²⁴

In addition, Sprint, in arguing against proposals to limit broadband USF support to a single provider in a geographic area, suggests that the Commission should pursue approaches that “better comport with the principle of competitive neutrality”²⁵ Similarly, while CTIA “applauds the Commission for reiterating its historic commitment to promoting universal service goals in a competitively neutral manner[,]”²⁶ it also expresses concern that certain proposals in the *NPRM* would violate the principle of competitive neutrality.²⁷

The record thus encourages the Commission to follow through on the Plan’s recommendation that new funding mechanisms should make support “available to both incumbent and competitive telephone companies (whether classified today as ‘rural’ or ‘non-rural’), fixed and mobile wireless providers, satellite providers and other broadband providers, consistent with statutory requirements.”²⁸ U.S. Cellular renews its suggestion that the Commission, in applying the principle of competitive neutrality as advised by the Plan, should focus on the *effects* of its proposed mechanisms and evaluate whether these effects would favor or disadvantage any class of competitors.

One commenter—NASUCA—takes a somewhat dyspeptic view of the competitive neutrality principle, noting that “it should be recalled that the principle does not appear in the

²⁴ T-Mobile Comments at 9.

²⁵ Sprint Nextel Corporation (“Sprint”) Comments at 10.

²⁶ CTIA Comments at 9.

²⁷ *Id.* at 9-10.

²⁸ NBP at 145, *quoted in NOI*, 25 FCC Rcd at 6668 (para. 24).

Act[,]”²⁹ and concludes that, in any event, eliminating all universal service support for competitive ETCs “does not even violate the ‘competitive’ neutrality principle.”³⁰ Having purported to neutralize the competitive neutrality principle (without offering any analysis of how the provision of universal service funding to one class of carriers without providing such funding to other classes of carriers would comport with competitive neutrality), NASUCA puts forward its own proposal for universal service reform.

Specifically, NASUCA suggests that the Commission should, “in order of diminishing preference[,]”³¹ eliminate high-cost support for all competitive ETCs, eliminate support for wireless competitive ETCs, or eliminate the identical support rule.³² NASUCA opines that “[t]hese funds could be better used for deployment of broadband in unserved areas.”³³

U.S. Cellular disagrees with NASUCA’s proposal. The fact is that the continuation of funding to competitive ETCs pursuant to the Commission’s new support mechanisms would have the precise effect of facilitating the deployment of broadband in rural and high-cost areas. That would be the purpose of the support, and it would be the obligation of the competitive ETC funding recipients to utilize the support for this purpose.

²⁹ National Association of State Utility Consumer Advocates (“NASUCA”) Comments at 18. The Act, of course, authorizes the Commission to promulgate “[s]uch other principles as the Joint Board and the Commission determine are necessary and appropriate for the protection of the public interest, convenience, and necessity and are consistent with the Act.” 47 U.S.C. § 254(b)(7).

³⁰ NASUCA Comments at 18 (footnote omitted).

³¹ *Id.*

³² *Id.* The identical support rule provides that competitive ETCs in a given service area are entitled to the same level of per line high-cost support as is received by the incumbent LEC in that service area.

³³ *Id.*

Although NASUCA has made clear its opposition to making support “available to both incumbent and competitive telephone companies[,]”³⁴ it has not provided any reasonable explanation of how its opposition can be reconciled with the competitive neutrality principle.³⁵ Moreover, although NASUCA pays homage to the statutory directive that services in rural areas must be “reasonably comparably priced to those in urban areas[,]”³⁶ it does not explain how rural areas that lack high-quality mobile wireless services, but have plenty of consumers who desire them, could receive the benefit of wireless services that are comparable to those offered in urban areas, if universal service support to wireless competitive ETCs were to be terminated.

NASUCA does offer up the notion that competitive neutrality has had the unintended consequence of causing “uneconomic market exploitation” and USF fund growth, because competitive neutrality has not led to vigorous competition between wireless competitive LECs and incumbent LECs in rural and high-cost areas.³⁷ This assessment is misguided and completely misses the mark.

The correct explanation for high-cost fund growth is the Commission’s failure to make universal service support fully portable. As a result of this failure, incumbents have been permitted to retain their full level of funding even as they have lost service lines at an accelerating pace.³⁸ This retention of funding, even as customers have migrated away from incumbent LECs,

³⁴ NBP at 145.

³⁵ NASUCA’s view ignores that competitive neutrality is a “core” principle adopted pursuant to Section 254(b)(7), which means that its force is equal to the other principles adopted by Congress.

³⁶ NASUCA Comments at i.

³⁷ *Id.* at 16 (citing NASUCA Comments on the Identical Support Rule, WC Docket No. 05-337, CC Docket No. 96-45 (Apr. 17, 2008) at 5-6).

³⁸ From 2000 through 2006 (the most recent year for which statistics are available), the total number of incumbent LEC access lines has decreased by 25.4 percent. *See* FCC, *Trends in Telephone Service* (Aug.

has unnecessarily inflated the size of the high-cost fund. Moreover, the largely unsupported assertion that wireless carriers do not compete with wireline carriers in rural areas could only be true in places where wireless coverage is poor. The unmistakable trend demonstrates that wireless substitution continues to increase and that low-income citizens, who cannot afford the luxury of a landline, are at the forefront of this inexorable shift. We respectfully refer the Commission to the latest report from the Centers for Disease Control, which stated in part:

One of every four American homes (24.5%) had only wireless telephones (also known as cellular telephones, cell phones, or mobile phones) during the last half of 2009—an increase of 1.8 percentage points since the first half of 2009. In addition, one of every seven American homes (14.9%) had a landline yet received all or almost all calls on wireless telephones.³⁹

III. THE SUFFICIENCY OF UNIVERSAL SERVICE SUPPORT.

One of the most important tasks facing the Commission as it proceeds with universal service reform, and transitions its funding mechanisms to support broadband deployment throughout rural America, is the need to ascertain the overall level of funding that will be sufficient to accomplish the Commission's statutory universal service responsibilities.

In the following sections, U.S. Cellular reviews the scope of these statutory requirements, and discusses the debate in the comments regarding whether the USF should be capped or permitted to grow in size over the short term, and regarding the approach that should be taken for the provision of support for mobile wireless broadband.

2008) at 7-3, Table 7.1 (Total U.S. Wireline Telephone Lines) (showing that incumbent LECs had 187,581,092 access lines in 2000 and 140,029,044 access lines in 2006).

³⁹ Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July-December 2009 (released May 12, 2010), available at: <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201005.pdf>.

A. Statutory Requirements.

The Act requires that support mechanisms devised by the Commission must be “sufficient . . . to preserve and advance universal service.”⁴⁰ Sufficiency must be measured from the perspective of customers, not from the perspective of carriers that receive universal service support.⁴¹ In this regard, sufficiency should be determined on the basis of an analysis of whether support mechanisms are effective in serving all of the principles articulated by Congress in Section 254(b).

As the Commission reviews its options for remaking its support mechanisms to accommodate funding broadband deployment, artificially constraining the size of the USF cannot be the Commission’s first objective. In fact, the Act requires support to be sufficient but does *not* place any explicit restraints on the size of the Fund.⁴²

⁴⁰ 47 U.S.C. § 254(b)(5).

⁴¹ *See Alenco*, 201 F.3d at 620 (emphasis in original):

The Act only promises universal service, and that is a goal that requires sufficient funding of *customers*, not *providers*. So long as there is sufficient and competitively-neutral funding to enable all customers to receive basic telecommunications services, the FCC has satisfied the Act and is not further required to ensure sufficient funding of every local telecommunications provider as well.

⁴² The following example illustrates the analysis that U.S. Cellular believes should inform the Commission’s consideration of new funding mechanisms. Section 254(b)(1) of the Act requires the Commission to base its universal service policies on the principle that consumers should have access to quality services at affordable rates. In the case of wireless competitive ETCs, the delivery of quality service is dependent in large part upon the construction of cell sites that provide sufficient coverage in an ETC’s service area. In the absence of sufficient cell site deployment, the quality of wireless service provided by the ETC will be degraded. Thus, a task for the Commission is to ensure that support mechanisms are sufficient to enable wireless competitive ETCs to engage in sufficient cell site construction. If the mechanisms are not successful in meeting this task, then the mechanisms do not comport with the mandate of Section 254(b)(1).

U.S. Cellular agrees with the ILEC Associations that the Commission’s emphasis on controlling the size of the USF “is not the result of any Congressional mandate”⁴³ The ILEC Associations explain why the Commission’s approach is misguided:

[T]here is no mention of capping the USF in either the 1996 Act or the [American] Recovery [and Reinvestment] Act, which directed the FCC to prepare the NBP. Yet, by making the prevention of Fund growth one of its foremost universal service policy objectives, the Commission is forced to propose in the NPRM additional caps and/or freezes . . . which contravene one of the key universal service objectives of Congress: to provide rural and high-cost areas with access to advanced services that are reasonably comparable in quality and price to those offered in urban areas.⁴⁴

Fund size is a political consideration that is the province of Congress. Concerns about “oversubsidization” must be met with objective facts, not political concerns regarding the “unsustainability” of the Fund.

B. Addressing the Size of the Fund.

There is support in the record for the proposition that the Commission should move forward with a program to bring broadband to rural America without limiting the Fund to its current size. If the Fund grows, it is the responsibility of Congress to determine whether the rate of growth threatens the viability of statutory universal service policies and objectives, and to take any legislative action it decides is necessary or appropriate.

If U.S. Cellular were to assume—which it does not—that the Commission does have license to consider giving a high priority to limiting the size of the USF, then U.S. Cellular would suggest that the Commission guide its decisions regarding the size of its new support mechanisms by following an analysis the agency outlined more than a decade ago:

⁴³ ILEC Associations Comments at 34.

⁴⁴ *Id.* (footnotes omitted).

In determining the size of the new federal mechanism to enable reasonably comparable local rates, we must fulfill our statutory obligation to assure sufficient, specific, and predictable universal service support without imposing an undue burden on carriers and, potentially, consumers to fund any increases in federal support. Because increased federal support would result in increased contributions and could increase rates for some consumers, we are hesitant to mandate large increases in explicit federal support for local rates in the absence of clear evidence that such increases are necessary either to preserve universal service, or to protect affordable and reasonably comparable rates, consistent with the development of efficient competition.⁴⁵

As RCA has observed, under the Commission's formulation, "even 'large increases' in funding should be mandated if there is 'clear evidence' that they are necessary to achieve statutory purposes."⁴⁶ Concerns about the size of the Fund should not drive decisions regarding the level of support needed to serve the principles of Section 254(b). It should be the other way around.

U.S. Cellular agrees with commenters who have explained that capping the Fund is not a good idea.⁴⁷ To date, wireless carriers have foregone approximately \$650 million in support⁴⁸ as

⁴⁵ *Federal-State Joint Board on Universal Service; Access Charge Reform*, CC Docket No. 96-45, CC Docket No. 96-262, Seventh Report and Order, 14 FCC Rcd 8078, 8111-12 (para. 69) (1999).

⁴⁶ RCA Comments, WC Docket No. 95-33, CC Docket No. 96-45, filed Jan. 28, 2010, at 14.

⁴⁷ See Cheyenne River Sioux Tribe Telephone Authority Comments at 9 (arguing that "[c]apping high-cost support will have the effect of stifling continued investment in improved technology in the telecommunications field"); ILEC Associations Comments at 5 (arguing that "the Commission should not impose any new caps or freezes on overall high-cost funding"); South Dakota Public Utilities Commission ("PUC") Comments at 6 (indicating that the PUC "disagrees that the way to control costs is by the use of an artificial cap that would be in place while the Commission decides how to reform universal service funding"). Although the ILEC Associations limit their concerns to the existing high-cost program "for ILECs" and to "new caps or freezes on RLEC-specific mechanisms[.]" ILEC Associations Comments at 73, U.S. Cellular nonetheless agrees with the ILEC Associations' conclusion that any overall cap or freeze "would immediately dampen, if not eliminate all short-term prospects for improved broadband availability, service quality, and adoption in RLEC service areas, and would also likely produce significant end-user rate increases." *Id.* U.S. Cellular notes, however, that, in the case of wireless competitive ETCs, the prospect of end-user rate increases would be mitigated by competitive pressures in the wireless marketplace.

⁴⁸ CTIA Comments at 11.

a result of the *Interim Cap Order*.⁴⁹ All of those funds could have been used by wireless competitive ETCs to invest in new network infrastructure in many rural areas that currently are not served by adequate facilities. The interim cap has worked a real hardship in a number of states in which significant funding reductions have adversely affected the build-out plans and service offerings of competitive ETCs. For example, under the cap, New Hampshire loses 83 percent of its support, Tennessee loses 75 percent, North Carolina loses 74 percent, New Mexico loses 65 percent, Virginia loses 43 percent, and Montana loses 34 percent.

As U.S. Cellular has suggested, the better course for the Commission to follow is to develop efficient support mechanisms in which the size of the Fund will be driven by the support amounts generated by these mechanisms. If support is deployed efficiently and effectively so that the investment in rural networks is optimized, then the size of the fund should largely become a tertiary concern. If, however, the size of the Fund is viewed as untenable politically or otherwise, then the pace of new funded investments could be adjusted.⁵⁰

The current high-cost mechanism provides approximately \$4.5 billion in support annually⁵¹—that is, \$27 billion over six years—not an insubstantial amount, to be sure, but more reasonably viewed in size and scope when taking into account the fact that high-cost support augments investments by new entrants. The high-cost support in effect acts as a multiplier for private investments that would not be made if the high-cost support were not available. Many of

⁴⁹ *High-Cost Universal Service Support*, Order, 23 FCC Rcd 8834 (2008) (“*Interim Cap Order*”), *aff’d*, *Rural Cellular Ass’n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

⁵⁰ This approach would be consistent with “the Commission’s goal of maintaining a reasonable budget on overall high cost funding.” CTIA Comments at 29 (discussing CTIA’s “winner takes more” competitive bidding approach).

⁵¹ See ILEC Associations Comments, App. A, “The FCC’s Broadband Assessment Model, Rural Association Staff Analysis,” at 27 (figure for 2009).

U.S. Cellular's new investments are augmented by support funds, that is, the company invests more of its own funds when it has access to support. Accordingly, the combination of public and private investment, even at the current Fund size, can make a substantial dent in the broadband availability gap in a relatively short period of time.

U.S. Cellular agrees with commenters who suggest that the size of the Fund should increase for an initial period during which the construction of new broadband networks would be accelerated. The ILEC Associations point to a glaring contradiction in the Commission's proposed approach. On the one hand, the NBP establishes the goal that every American should have affordable access to robust broadband service.⁵² But, on the other hand, sufficient high-cost mechanisms will not be in place to accomplish this goal in rural and high-cost areas if the Commission decides to cap the overall size of the Fund.⁵³ U.S. Cellular agrees with the ILEC Associations' assessment that "[i]t is inconceivable how sufficient support can be made available for the deployment, operation, and maintenance of scalable broadband networks, capable of meeting the long-term bandwidth needs of consumers throughout rural America, if the total size of the USF is kept at roughly its current level (in 2010 dollars)."⁵⁴

U.S. Cellular does not suggest that the Commission's new funding mechanisms should be permitted to result in unrestrained growth in the overall size of the Fund. The new mechanisms should be targeted to ensure that rural consumers receive access to affordable broadband services

⁵² NBP at 26, *cited in* ILEC Associations Comments at 11.

⁵³ *See* ILEC Associations Comments at 10 (explaining that "the benefits envisioned by the Plan will not be fully realized, and the Plan itself is at risk of failure, because of the Commission's perplexing insistence that nationwide broadband deployment can be accomplished without the size of the USF growing in real terms").

⁵⁴ *Id.* at 12.

as soon as possible. The short-term overall growth in the Fund could be kept within manageable bounds if this targeting is done effectively, and is combined with other measures.

For example, the NBP suggests that Congress may wish to provide additional funding to help accelerate broadband deployment.⁵⁵ Combining effective targeting of support, additional appropriations, universal service contribution reform, and distribution of support based on the utilization of efficient technologies, would help to bring the amount of support available for broadband deployment within a sufficient range, would increase the “bang for the buck” of private capital investments in rural areas, and would accelerate broadband deployment. If this is truly a worthy goal, and U.S. Cellular is certain that it is, then a short-term increase in the size of the Fund is worthwhile, provided that broadband deployment is accelerated as a result.

C. Support for Mobile Wireless Broadband.

In light of the substantial benefits that mobile wireless broadband services can bring to consumers in rural and high-cost areas, opposition to providing sufficient funding to wireless competitive ETCs for broadband deployment has no credible basis. U.S. Cellular addresses these issues in the following sections.

1. Benefits of Providing Support to Wireless Competitive ETCs.

U.S. Cellular has pointed out in its Comments that mobile broadband applications are becoming a large part of American life,⁵⁶ and that, in order for consumers in rural and high-cost areas to have access to reasonably comparable services, the new universal service mechanisms

⁵⁵ NBP at xiii (noting that, “[i]f Congress wishes to accelerate the deployment of broadband to unserved areas and otherwise smooth the transition of the Fund, it could make available public funds of a few billion dollars per year over two to three years”).

⁵⁶ U.S. Cellular Comments at 4 n.9.

devised by the Commission must provide access to high-quality mobile wireless infrastructure, including mobile broadband.⁵⁷

The NBP recognizes the benefits and opportunities presented by mobile broadband,⁵⁸ and the important role that mobile broadband can play for consumers and businesses also is acknowledged in the comments. CTIA observes that “U.S. consumers have adopted wireless services at a blistering pace, whether considering voice or broadband services[,]”⁵⁹ Sprint points out that “tens of millions of end users need and want *mobile* broadband, in conjunction with or even in place of fixed broadband connections[,]”⁶⁰ and RCA indicates that, in addition to “the fact that wireless is now the dominant mode of voice communications[,]”⁶¹ research “indicates that the total number of mobile Internet users will surpass the total number of desktop Internet users by 2014.”⁶²

The NBP also recognizes that:

[t]he use of wireless broadband is growing rapidly, primarily in the area of mobile connectivity Key drivers of this growth include the maturation of third-generation (3G) wireless network services, the development of smartphones and other mobile computing devices, the emergence of broad new classes of connected devices and the rollout of fourth-generation (4G) wireless technologies such as Long Term Evolution (LTE) and WiMAX.⁶³

⁵⁷ *Id.* at 4.

⁵⁸ NBP at 9 (noting that mobile broadband is growing at unprecedented rates). *See* Michael J. Copps, Acting Chairman, FCC, *Bringing Broadband to Rural America: Report on a Rural Broadband Strategy* (May 22, 2009) at para. 14 (indicating that “[b]roadband Internet access, often on small, easy-to-use devices, is rapidly transforming the way we communicate, work, learn, and play” and that “[t]ouch-screen mobile devices [and] e-books . . . have become standard features in many people’s daily lives”).

⁵⁹ CTIA Comments at 3.

⁶⁰ Sprint Comments at 6 (footnote omitted) (emphasis in original).

⁶¹ RCA Comments at 20.

⁶² *Id.* (footnote omitted).

⁶³ NBP at 76.

4G technology in particular will play a critical role in accelerating broadband access for consumers in rural America. Its deployment is imminent, and any new USF funding mechanisms must support this and other emerging technologies, instead of continuing to funnel disproportionately large levels of funding to carriers providing service with outmoded technologies.

2. Misguided Criticisms of the Provision of Support to Wireless Competitive ETCs.

A few commenters argue that the Commission should reduce or eliminate USF funding for wireless competitive ETCs, but the basis for these arguments does not withstand scrutiny.

For example, USTA urges the Commission to “act now to phase out the remaining CETC support . . . under the legacy programs[.]”⁶⁴ arguing that “CETC funding does not go to carriers of last resort [and] [d]uring the dramatic growth of support to CETCs, nationwide telephone penetration has remained relatively flat.”⁶⁵

The carrier-of-last-resort (“COLR”) claim advanced by USTA is meritless, as RCA has explained:

[I]n the entire universal service debate, perhaps no other argument has been so shamelessly used and abused as the COLR obligation. Every new wireless entrant that seeks ETC status statutorily accepts that it might be asked to serve all customers within its service territory at some future date. Therefore, because wireless ETCs face effectively the same service obligations as incumbent LECs, there is absolutely no reason to provide incumbent LECs with a preferential level of high cost support. Any USF reform measures should reflect this reality, particularly if the Commission wants to uphold its guiding policymaking principle of competitive neutrality.⁶⁶

⁶⁴ United States Telecom Association (“USTA”) Comments at 14.

⁶⁵ *Id.* at 14-15 (footnote omitted).

⁶⁶ RCA Comments, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, NBP Notice # 19, filed Dec. 7, 2009, at 27.

In other words, USTA is incorrect in asserting that wireless competitive ETCs are not subject to COLR obligations and, therefore, USTA’s assertion cannot serve as justification for phasing down universal service support currently provided to wireless competitive ETCs. USTA’s implication that incumbent LECs bear unique burdens associated with their COLR responsibilities is further exposed as having no basis by the fact that incumbent LECs often are permitted to meet their COLR obligations by extending service to particular customers through special construction arrangements that enable the incumbent LECs to recoup the full cost of the facilities involved.

USTA’s reference to telephone penetration rates is equally unavailing. It is disingenuous to suggest that the provision of universal service support to wireless competitive ETCs has not produced the results envisioned by Congress because nationwide telephone penetration rates have not increased during the period this support has been made available.⁶⁷

The fact is, Section 214(e) explicitly authorizes the designation of multiple CETCs, and Congress wrote the statute knowing full well the level of telephone penetration at that time. Moreover, wireless competitive ETCs utilize their USF support to provide valuable benefits that are very much in demand among rural consumers. As the Commission has found:

⁶⁷ Does USTA also mean to suggest that, since rural incumbent LECs have received staggeringly large amounts of high-cost support during this same period, their current universal service funding should be immediately phased down based on the fact that wireline telephone penetration rates are rapidly declining as a result of cord cutting? See page 13 n.38, *supra*. The following table shows incumbent LEC and competitive ETC high-cost disbursements for 2005 through 2009:

YEAR	ILEC	CETC
2005	\$3,185,669,531	\$638,516,367
2006	\$3,116,405,350	\$979,915,917
2007	\$3,108,230,458	\$1,178,502,589
2008	\$3,093,298,723	\$1,384,487,077
2009	\$3,018,231,499	\$1,273,948,640

Source: Universal Service Administrative Corporation (“USAC”), High-Cost Program, Support Distribution Between CETCs & ILECs, 1998 Through 1Q2010, accessed at <http://www.usac.org/about/universal-service/fund-facts/fund-facts-high-cost-quarterly-program-statistics.aspx>.

[T]he mobility of . . . wireless service [provides] benefits to consumers. For example, the mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other locations. The availability of a wireless universal service offering also provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.⁶⁸

In addition, a principal reason for the Congressional decision to make wireless service providers eligible for the receipt of universal service support was to promote the statutory goals of both universal service and competition in local exchange markets. To adopt USTA's reasoning would require the Commission to completely ignore its statutory mandate to ensure that rural consumers have access to reasonably comparable services. USTA argues, in effect, "if you have a phone attached to your kitchen wall, then the universal service mission is accomplished." In fact, most everyone had a phone on a kitchen wall in 1996. Congress intended for the 1996 Act, including its universal service provisions embodied in Sections 214(e) and 254, to break the monopoly in rural areas so that competition could help to improve the lives of rural Americans.

CenturyLink's arguments fare no better. CenturyLink attempts to defend its support for a five-year phase-down of wireless competitive ETC support by asserting that current funding for wireless competitive ETCs is a "windfall that is only funding duplicate networks, not universal service."⁶⁹ The fact is that the number of wireless competitive ETCs that may provide service in the same area is limited by the number of customers in that area, since USF support is fully port-

⁶⁸ *Federal-State Board on Universal Service; Public Service Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the States of Georgia and Alabama*, CC Docket No. 96-45, Order, 20 FCC Rcd 6854, 6861 (para. 25) (Wireline Comp. Bur. 2005).

⁶⁹ CenturyLink Comments at 42 (footnote omitted). See Windstream Communications, Inc., Comments at 27-28.

able among wireless ETCs. In almost all cases, the cost of supporting multiple competitive ETCs in the same service area is at or below the cost of supporting a single incumbent LEC.⁷⁰

T-Mobile has exposed the fallacy of the “duplicate network” argument advanced by CenturyLink, indicating that “it is consumer demand for wireless services (and not regulatory anomalies) that has led to the growth in CETC support.”⁷¹ In addition, T-Mobile explains, “[n]ow, with the CETC cap in place, CETCs are receiving less support, but are providing more services[,]”⁷² and points out that, “[e]ven though multiple CETCs are receiving support in some geographic areas, the universal service fund is not subsidizing multiple networks.”⁷³

Finally, NASUCA attempts to retread a tired argument that a study conducted by Criterion Economics, sponsored by Verizon three years ago, demonstrates that rural consumers do not receive any benefit from wireless competitive ETC funding.⁷⁴ The study purported to show that there is no correlation between wireless deployment in rural areas and the receipt of high-cost support by wireless competitive ETCs.⁷⁵

In addition to the fact that, as U.S. Cellular has discussed, the Commission itself has found that wireless competitive ETCs provide valuable benefits to consumers throughout rural America, U.S. Cellular has also directly responded to allegations made in the Criterion study. In an *ex parte* filing made with the Commission, U.S. Cellular illustrated the error of Criterion’s claims by “provid[ing] three maps of Maine demonstrating that U.S. Cellular provides substan-

⁷⁰ See U.S. Cellular Comments at 20.

⁷¹ T-Mobile Comments at 9.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ NASUCA Comments at 16-17.

⁷⁵ *Id.* at 16.

tial additional coverage beyond that which is offered by the largest wireless carriers offering unsubsidized service in each state.”⁷⁶

Although a “screen shot” from the Verizon Wireless web site “appears [to show] that Verizon Wireless advertised coverage includes substantial areas where service is being provided by U.S. Cellular[,]”⁷⁷ U.S. Cellular concluded that “substantial unsubsidized coverage shown in Criterion’s study results from its use of wireless carrier marketing maps, which frequently advertise ‘home’ service areas to include coverage provided by roaming partners.”⁷⁸ In some cases, Verizon’s roaming partners in rural areas are using high-cost support to expand coverage for the benefit of Verizon’s customers.

Finally, it should be noted, in response to the various ineffectual criticisms raised by opponents of wireless competitive ETC funding, that U.S. Cellular in its Comments has definitively responded to these criticisms by showing that it puts its USF support to efficient and effective use.⁷⁹ U.S. Cellular included with its Comments four service area maps illustrating the company’s progress in using federal high-cost support to improve service in rural states. “In each case, support has helped U.S. Cellular to improve its coverage over the past several years, but the most rural portions of its service area still require additional investment.”⁸⁰ Thus, although much has been accomplished, much remains to be done. U.S. Cellular will increase or decrease investment

⁷⁶ Letter from David A. LaFuria, Counsel for U.S. Cellular, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337, filed July 24, 2007, at 1.

⁷⁷ *Id.* at 2.

⁷⁸ *Id.*

⁷⁹ See U.S. Cellular Comments at 23 (discussing data developed through third-party network quality testing).

⁸⁰ *Id.* at 5.

in the most rural portions of its service areas commensurate with available USF support. Until all areas have robust coverage, any concerns about support levels being excessive are misplaced.

IV. DETERMINING THE MECHANISMS FOR SUPPORT.

Another important task the Commission must address as it strives to adopt universal service reform, and to transition USF support to broadband, involves the redesign of funding mechanisms and the selection of methodologies to calculate the levels of support to be disbursed to ETCs. These issues, which have received considerable attention in the comments, are addressed by U.S. Cellular in the following sections.

A. Reverse Auctions.

U.S. Cellular has explained in its Comments that there are numerous, well documented problems associated with the use of a reverse auction methodology as a means of disbursing support for broadband deployment.⁸¹

Other than those seeking to crowd out competition, most commenters have joined U.S. Cellular in opposing the creation of a new monopoly carrier in rural America through the use of a reverse auction or other single-winner procedures. NASUCA, for example, accompanies its comments with an economic analysis that points out that, since “there is every reason to expect that the winning bidder will have market power[,] [t]he price charged by the winning bidder will have an impact on the level of broadband penetration, and on the objective of affordable broadband.”⁸² The analysis cautions that the Commission would need to “review the prices of sup-

⁸¹ U.S. Cellular Comments at 12-18.

⁸² NASUCA Comments, Affidavit of Trevor R. Roycroft, at 48.

ported services and ensure that they are affordable and reasonably comparable to those in urban areas.”⁸³

AT&T also is critical of reverse auctions, explaining that it would be difficult to define “a geographic area [for the auction] that is both competitively neutral and appropriately sized[,]” and that there would be problems associated with setting an auction’s reserve price.⁸⁴ The ILEC Associations explain that reverse auctions would raise service quality issues because auction participants would have incentives to bid low and then to keep capital investments and operational expenses to minimum levels.⁸⁵ The USA Coalition observes that a single-winner reverse auction would be harmful to consumers because the auction winner would be insulated from market forces “that would otherwise compel [the carrier] to become more efficient over time.”⁸⁶

B. Cost Model.

An economic cost model, as U.S. Cellular has explained in its Comments, can be used as an effective means of targeting appropriate amounts of universal service support, thus furthering the principle that universal service support mechanisms must be designed to benefit customers, not carriers.⁸⁷ The strengths of a cost model, as a basis for calculating accurate levels of support

⁸³ *Id.* See ILEC Associations Comments at 24-25; USA Coalition Comments at 40.

⁸⁴ AT&T Inc. (“AT&T”) Comments at 7-8.

⁸⁵ ILEC Associations Comments at 23. See National Tribal Telecommunications Association Comments at 7 (arguing that a reverse auction “process will result in lowering the quality of networks, lower quality of service; encourage cutting corners and potentially passing costs on [to] ratepayers to make up revenue shortfalls”).

⁸⁶ USA Coalition Comments at 34.

⁸⁷ U.S. Cellular Comments at 19.

and targeting support for the benefit of customers in rural and high-cost areas, has led U.S. Cellular to recommend that the Commission should continue its work in developing a cost model.⁸⁸

Numerous commenters recognize the strengths of economic cost models as a basis for determining universal service support, especially in contrast to other calculation devices currently employed by the Commission. CTIA, for example, observes that the Commission determined more than a decade ago that all high-cost support disbursements should be determined by using forward-looking cost methodologies, which are superior to the mechanism of relying on guaranteed rate-of-return mechanisms as a basis for the high-cost system.⁸⁹

Sprint criticizes the fact that only \$331 million of the \$4.3 billion in high-cost support disbursed in 2009 was made available through the use of forward-looking cost mechanisms.⁹⁰ Sprint expresses support for the use of a forward-looking incremental economic cost model for broadband funding, and argues that pricing based on forward-looking costs encourages efficient levels of investment and market entry.⁹¹

⁸⁸ *Id.* See Comcast Comments at 14 (noting that “Comcast supports additional efforts by the Commission staff to expand the Broadband Model to analyze the total forward-looking economic costs of a modern broadband network”).

⁸⁹ CTIA Comments at 16.

⁹⁰ Sprint Comments at 3 (citing *NOI*, 25 FCC Rcd at 6662-63 (para. 8)).

⁹¹ *Id.* See Missouri Public Service Commission Comments at 2-3 (explaining that a forward-looking model would more closely approximate a competitive market and would better ensure more efficient investment decisions); Nebraska Public Service Commission and North Dakota Public Service Commission (“Nebraska PSC and North Dakota PSC”) Comments at 7 (observing that an economic cost model is a competitively neutral and efficient way to quantify the minimum amount of universal service support necessary to support networks that provide broadband and voice service); RCA Comments at 8 (arguing that “a well-designed model that targets support to high-cost areas and identifies an amount of support that is portable to all market participants, will preserve and advance universal service, as required by the Act”); T-Mobile Comments at 11 (arguing that a properly structured cost model could be a useful means of determining universal service support levels); Washington Utilities and Transportation Commission Comments at 3 (supporting use of a cost model for managing universal service support, so long as the model is well-designed and robust).

Based upon the widely shared view expressed in the comments that a forward-looking cost model, if properly designed and implemented, would serve as an effective means for disbursing universal service support for broadband deployment, U.S. Cellular renews its suggestion that the Commission should continue its efforts to develop an effective cost model.⁹²

C. Two-Fund Proposal.

In examining the critical issue of how the Commission’s support mechanisms should be restructured to ensure a sufficient level of funding for both fixed and mobile broadband services, U.S. Cellular has recommended in its Comments that the existing support mechanisms “be repurposed over time into separate funds that support ongoing investments in both fixed and mobile broadband infrastructure.”⁹³

Under U.S. Cellular’s suggested approach, the two-fund mechanism would be designed to target an appropriate level of support to areas that need it most, and to encourage carriers to enter rural and high-cost markets. This approach, in U.S. Cellular’s view, is the most efficient and least disruptive way to accelerate mobile broadband infrastructure deployment.

U.S. Cellular believes that its proposed approach solves the most significant problems with the NBP’s recommendation to establish two funds—the CAF and the Mobility Fund—but to flow “the vast majority of new funding . . . through the proposed CAF,”⁹⁴ and to limit the pro-

⁹² U.S. Cellular also agrees with CTIA’s suggestion that, as part of the Commission’s continuing development of a model, it should release the National Broadband Plan model so that its performance can be tested by interested parties. CTIA Comments at 21. *See* Independent Telephone and Telecommunications Alliance Comments at 9-10; Pennsylvania PUC Comments at 18.

⁹³ U.S. Cellular Comments at 29. U.S. Cellular pointed to the imbalance of current funding, noting that “much of the more than \$3 billion in high-cost support flowing to wireline networks continues to support *fixed voice services*, and roughly \$1.3 billion goes to support *mobile voice services*.” *Id.* (emphasis in original).

⁹⁴ CTIA Comments at 23 (footnote omitted).

posed Mobility Fund “only [to] one-time investment support, and only in a small handful of states.”⁹⁵

Under U.S. Cellular’s two-fund proposal, “[a] predetermined level of support would be available to carriers providing consumers with *fixed* broadband services, and a separate (and different) level of support would be available to carriers providing consumers with *mobile* broadband services.”⁹⁶ After the Commission has determined a level of support for the two funds, ETCs would be free to enter rural and high-cost markets, “and those with lower prices, innovative service offerings, or other advantages will have an incentive to bring products and services to market.”⁹⁷

Two state commissions have embraced the funding approach. Specifically, in their joint comments, the Nebraska and North Dakota commissions:

recommend that the Commission use separate funding mechanisms for wireline and wireless carriers. It is very important for consumers to have a choice in providers. Equally important is the option to have at least one wired and one wireless provider that can offer consumers the services they need. When determining capital investments necessary or ongoing operation costs of both wireline and wireless broadband networks, the Commission must properly account for both the infrastructure and maintenance costs associated with deploying and maintaining a broadband network.⁹⁸

The two commissions also advocate the use of a wireless propagation model to accurately determine the costs associated with wireless broadband deployment. The commissions conclude that,

⁹⁵ *Id.* (footnote omitted). *See* Rural Telecommunications Group, Inc. (“RTG”), Comments at 15 (footnote omitted) (pointing out that “[t]he FCC’s intention to dismiss high-cost support for competitive eligible telecommunications carriers . . . the majority of whom are wireless carriers, and instead create an anemic and one-time Mobility Fund fails to recognize the importance of mobility for all Americans and, consistent with Section 254 of the Act, consumer choice”).

⁹⁶ U.S. Cellular Comments at 21 (emphasis in original).

⁹⁷ *Id.*

⁹⁸ Nebraska PSC and North Dakota PSC Comments at 8.

“[w]ithout the use of a wireless propagation model, it is possible that the costs to provide wireless broadband service will be underestimated.”⁹⁹

The adoption of a two-fund approach, as recommended by U.S. Cellular, would advance goals articulated by numerous commenters, in that the two-fund mechanism would be competitively neutral by providing an equitable method for the determination and use of support, it would encourage competitive entry and award the efficient deployment of broadband infrastructure, and it would be responsive to consumers’ increasing desire for affordable access to mobile wireless broadband networks.

V. PHASE-DOWN OF EXISTING SUPPORT.

In its Comments, U.S. Cellular has indicated that the phase-down of support under existing mechanisms for incumbent LECs and competitive ETCs must be accomplished in an equitable manner,¹⁰⁰ and that, if the Commission decides to establish a replacement mobility fund, this fund should be in place and operational before any phase-down of current funding to wireless competitive ETCs is commenced.¹⁰¹ U.S. Cellular also has cautioned the Commission to avoid any flash-cut elimination of IAS because this could adversely affect competitive ETCs operating in areas where IAS is a significant source of funding.¹⁰² For example, elimination of IAS in West Virginia would immediately reduce USF support there by \$7.6 million annually, and in Virginia by \$27.4 million annually.¹⁰³ Such draconian and sudden reductions in funding available for new

⁹⁹ *Id.* at 9.

¹⁰⁰ U.S. Cellular Comments at 26-27.

¹⁰¹ *Id.* at 27.

¹⁰² *Id.* at 27-28.

¹⁰³ *See* USAC, Third Quarter Appendices – 2010, Appendix HC01A, available at <http://www.usac>.

cell site construction can only exacerbate the communications issues noted by Senator Rockefeller in his home state and in other states reliant on IAS support.

Numerous commenters agree with U.S. Cellular's proposal for an equitable transition to new funding mechanisms designed to support broadband deployment. As a general matter, the USA Coalition makes the apt observation that the Commission's "addressing transition measures before the replacement mechanism is adopted would be arbitrary and capricious because the FCC would have no basis upon which to conclude that the transition measures would not lead to insufficient, or even excessive, funding."¹⁰⁴

Thus, in order to avoid the risk of insufficient funding,¹⁰⁵ the Commission must be prepared to disburse support from new funding mechanisms before it initiates the phase-down of existing support for competitive ETCs (or for incumbent LECs). In U.S. Cellular's view, this would likely mean that the Commission should avoid planning for any near-term phase-down of existing support, because, if the Commission elects to use a forward-looking cost model, the selection of the means to estimate costs, and to include revenue inputs, would not likely be accomplished by the Commission in the immediate period following its adoption of a cost model.

Similarly, if the Commission were to adopt a reverse auction mechanism for the distribution of support, there would likely be a considerable delay following adoption of the mechanism

org/about/governance/fcc-filings/2010/quarter-3.aspx. The calculation of the reductions uses current uncapped funding levels for West Virginia and Virginia, based on the Commission's current rules. *See* NBP at 147 n.101 (citing 47 C.F.R. § 54.307).

¹⁰⁴ USA Coalition Comments at 25. *See* TDS Telecommunication Corp. Comments at 13 (emphasis in original) (arguing that the *NOI* and *NPRM* appear "to put the cart before the horse by planning to disassemble the current support structure *before* having a clear picture of how the new support structure will work").

¹⁰⁵ U.S. Cellular also endorses the USA Coalition's view that the failure to have new funding mechanisms in place before commencement of any phase-down of existing support would make the Commission's plan vulnerable to legal challenge.

before the Commission would actually begin to use reverse auctions to disburse support. The phase-down of existing support should not be initiated during this period of delay.

In addition to the issue of the availability of sufficient support, there also is the issue of ensuring that rules have a competitively neutral effect. Thus, Sprint points out that the Commission should provide for the phase-down of existing support on the same time line for both incumbent LECs and competitive ETCs, “[t]o help ensure competitive parity”¹⁰⁶ T-Mobile agrees with this assessment, emphasizing that any transition to broadband funding mechanisms “must be competitively and technologically neutral.”¹⁰⁷ CTIA warns against any timing mismatch between the phase-down of existing support and the disbursement of broadband support,¹⁰⁸ agreeing with U.S. Cellular that consumers would be harmed if, after the phase-down of existing support has begun, there is a long delay in making funds available pursuant to new funding mechanisms.¹⁰⁹

With regard to IAS funding, several commenters agree with U.S. Cellular that the Commission must exercise care in the manner in which it decides to eliminate this support.¹¹⁰ T-Mobile, for example, stresses that the transition for the elimination of IAS “must occur in a competitively neutral manner, as required by statute[,]”¹¹¹ and that, “[b]ecause both price cap ILECs

¹⁰⁶ Sprint Comments at 14.

¹⁰⁷ T-Mobile Comments at 4.

¹⁰⁸ CTIA Comments at 7.

¹⁰⁹ *Id.* See Border Companies Comments at 9 (arguing that the Commission should “ensure that the current high-cost program is maintained while it develops and implements the mechanisms for transiting the funds to more directly support broadband”); Telecommunications Industry Association Comments at 6 (stating that “[t]he Commission should be especially careful to ensure that elimination of support from existing mechanisms is coordinated with establishment of new support mechanisms”).

¹¹⁰ See, e.g., RCA Comments at 11-12.

¹¹¹ T-Mobile Comments at 8 (footnote omitted).

and CETCs receiving IAS will need time to adjust to the elimination of IAS, the Commission should establish a competitively neutral transition applicable to all recipients.”¹¹²

Both CenturyLink and NASUCA favor the phase-down of wireless competitive ETC support over a five-year period, while also supporting the Commission’s proposal to use a 10-year period for the phase-down of existing support received by incumbent LECs. Even though these discrepant phase-down periods are competitively inequitable on their face, CenturyLink contends that the phase-down would in fact be equitable to wireless carriers.¹¹³ NASUCA supports the elimination of competitive ETCs’ funding over a five-year period because “[t]he current CETCs are primarily wireless companies who deployed to [*sic*] their services in order to chase universal service funding, who operate in fully competitive markets and who will have ample opportunity to seek justified support as they deploy future wireless service in unserved and under-served market areas.”¹¹⁴

CenturyLink attempts to support its position by alleging that wireless competitive ETCs are receiving duplicative support and that, therefore, it is not inequitable to eliminate this support on a faster timetable than the schedule applicable to incumbent LECs.¹¹⁵ As U.S. Cellular has discussed, allegations regarding the receipt of duplicative support lack any rational basis.¹¹⁶

NASUCA’s arguments in favor of different timetables for the phase-down of existing support received by incumbent LECs and wireless competitive ETCs are also unavailing.

¹¹² *Id.* See CTIA Comments at 18 (footnote omitted) (suggesting that “the transition should begin with the reduction of ILECs’ IAS per-line support to the level of the CETCs in the state. This would allow the phase-out to begin from a competitively neutral position. Once the per-line support amounts are the same for all ETCs, the remaining IAS support can be redirected in a neutral manner across all ETCs.”).

¹¹³ CenturyLink Comments at 42.

¹¹⁴ NASUCA Comments at 16.

¹¹⁵ CenturyLink Comments at 42.

¹¹⁶ See Section III.C.2., *supra*.

NASUCA's unsupported attempt to malign wireless competitive ETCs by alleging that they are merely engaged in "chas[ing] universal service funding"¹¹⁷ is hardly worthy of a response. Suffice it to say that consumers in rural and high-cost areas receive significant value from the services provided by wireless competitive ETCs,¹¹⁸ and that wireless competitive ETCs are subject to infrastructure deployment schedules and other requirements that ensure that the support they receive advances the objectives of the USF program.

Regarding NASUCA's observation that wireless competitive ETCs operate in fully competitive markets, it is difficult to understand how that could have any bearing on the issue of whether they should be subject to a phase-down timetable that is clearly disadvantageous when compared to the schedule proposed for incumbent LECs. Presumably those competitive marketplaces include wireline carriers as competitors. Why wouldn't all competitors in a competitive marketplace receive competitively neutral treatment, as required by the Commission's rules?

U.S. Cellular has demonstrated that it uses its high-cost support to provide substantial additional coverage beyond that which is offered by the largest unsubsidized wireless competitors operating in the same geographic areas.¹¹⁹ In addition, to the extent that competing wireless ETCs provide service in the same geographic area, this does not amount to any duplication of support because, as U.S. Cellular and other commenters have explained, the support is fully portable among the competing wireless carriers.

Finally, NASUCA misses the point in asserting that mismatched timetables for the phase-down of existing support are not problematic because wireless competitive ETCs will have an

¹¹⁷ NASUCA Comments at 16.

¹¹⁸ See the discussion in response to arguments made by USTA, in Section III.C.2., *supra*.

¹¹⁹ See the discussion of the study conducted by Criterion Economics, in Section III.C.2., *supra*.

opportunity to seek support under the Commission's revised funding mechanisms. Since the same observation could be made regarding incumbent LECs, it is not clear how NASUCA's argument could somehow justify unequal phase-down timetables.

More important, a critical issue, as U.S. Cellular has discussed, is whether the new support mechanisms will be operational in time for the disbursement of funding to wireless competitive ETCs in a manner that avoids any hiatus between the cut-off of existing funding and the availability of new funding. If these new mechanisms are not available for the provision of funding at the inception of the phase-down period, then there is a risk that wireless competitive ETCs will not be in receipt of sufficient funding to maintain their services and adhere to their existing build-out commitments. NASUCA's claims regarding the opportunity to seek support do not take this timing problem into account.

VI. TARGETING SUPPORT TO AREAS IN NEED.

U.S. Cellular in its Comments has stressed the importance of designing mechanisms that target support to high-cost areas that are most in need of support to foster investment in networks.¹²⁰

Senator Rockefeller has recently drawn attention to the fact that current support mechanisms are not working effectively to target support to areas with the highest need. Senator Rockefeller has explained that the shortcomings of the current USF program:

have been magnified by a FCC system in which support is dependent on the size and regulatory classification of the carrier rather than the underlying characteristics of the area to which support is directed. A more sensible and efficient system—that delivered true universal service—would focus less on the size of the

¹²⁰ U.S. Cellular comments at iii, 19.

carrier providing the service and more on providing support to those areas of the country that lack service today.¹²¹

There is support in the record for addressing the types of concerns raised by Senator Rockefeller, and by U.S. Cellular, by fashioning mechanisms that are more effective in targeting support to areas with the greatest need.¹²²

U.S. Cellular believes that two steps would be beneficial in ensuring that support provided pursuant to the Commission's redesigned funding mechanisms reaches areas where such support is most needed to assist the deployment of broadband infrastructure. First, service areas should be defined using competitively neutral criteria that ensure the efficient use of support in the highest-cost areas. AT&T, for example, explains that:

[t]argeting and calculating support based on an area smaller than a county is more likely to generate the level of support needed to improve the business case for providing broadband because it would reduce the level of averaging or netting that could occur as the size of the geographic area increases.¹²³

Second, the Commission should move forward with requiring the disaggregation of support pursuant to its current rules, which would enable the shifting of support to remote areas with the greatest need for USF assistance.

These steps would be effective in retargeting support to areas where carriers have been less successful in deploying infrastructure because of the remoteness and terrain of the areas, as well as their sparse population density. These results, in addition, would be largely responsive to concerns raised by NCTA, which argues that the Commission should adopt a mechanism to avoid the provision of support in areas where the market is delivering services without subsi-

¹²¹ Senator Rockefeller Letter at 2.

¹²² See Nebraska PSC and North Dakota PSC Comments at 9; RCA Comments at 8-9, 14; Wyoming PSC Comments at 2.

¹²³ AT&T Comments at 15. See USTA Comments at 14.

dy.¹²⁴ U.S. Cellular opposes the specific mechanism proposed by NCTA,¹²⁵ but believes that the steps it is recommending in these Reply Comments would accomplish most, if not all, of the objectives pursued by NCTA, by shifting support from lower cost to higher cost areas.

VII. IMMEDIATE ACTION TO FACILITATE BROADBAND DEPLOYMENT.

On July 20, 2010, the Commission released its *2010 Sixth Broadband Deployment Report*.¹²⁶ For the first time, the Commission concluded that broadband services are not being deployed to all Americans in a reasonable and timely fashion.¹²⁷ Not surprisingly, the Commission found that low-income citizens and those living in rural areas are disproportionately impacted.¹²⁸

Senator Rockefeller's recent urging that the Commission move forward with dispatch to remedy the profoundly unjust disparities in access to high-quality communications infrastructure calls out for action.¹²⁹ Moreover, when a finding is made that broadband is not being deployed in a timely fashion, Section 706(b) of the 1996 Act requires the Commission to "take immediate action to accelerate deployment of [advanced telecommunications] capability by removing bar-

¹²⁴ See National Cable and Telecommunications Association ("NCTA") Comments at 10.

¹²⁵ In brief, the mechanism proposed by NCTA would reduce or eliminate support in areas where unsubsidized wireline competitors offer service to more than 75 percent of all customers. *Id.* There are numerous problems with this approach, not least of which is the fact that it could have the effect of reducing or eliminating support in areas with the highest costs. See generally RCA Comments, GN Docket No. 09-51, WC Docket No. 05-337, RM-11584, filed Jan. 7, 2010.

¹²⁶ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Amended by the Broadband Data Improvement Act*, GN Docket Nos. 09-137, 09-51, Report, FCC 10-129 (rel. July 20, 2010) ("*2010 Sixth Broadband Deployment Report*").

¹²⁷ *Id.* at para. 28.

¹²⁸ *Id.*

¹²⁹ See Senator Rockefeller Letter, *passim*.

riers to infrastructure investment and by promoting competition in the telecommunications market.”¹³⁰

On August 6, 2010, the Commission released its Seventh Broadband Deployment Notice of Inquiry.¹³¹ The *Deployment NOI* kicks off another round of proceedings to analyze broadband deployment throughout the country. What it does not do is fulfill the Congressional directive to take immediate action.

If the Commission wants to take truly immediate action to accelerate broadband deployment in rural America, it should take the steps outlined in the following sections, which can be accomplished quickly and which would have immediate and measureable benefits in rural America. There are ample mechanisms in place to permit the Commission and state commissions to ensure that funds are being used to build out new cell sites and deploy dual-purpose networks for the benefit of rural citizens, and U.S. Cellular fully supports such accountability measures.

A. Issue a Clarification of a Prior Commission Ruling That Permits All ETCs To Use Support To Invest in Dual-Purpose Networks.

The Commission should issue a declaratory ruling, *sua sponte*, clarifying that carriers are permitted to use high-cost support to deploy facilities that carry both voice and data, including specifically, 3G CDMA and LTE networks. Such a ruling is fully supported by prior Commission pronouncements. For example, the Commission has found that:

[U]se of support to invest in infrastructure capable of providing access to advanced services does not violate section 254(e), which mandates that support be used “only for the provision, maintenance, and upgrading of facilities and services

¹³⁰ 47 U.S.C. § 1302(b).

¹³¹ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, GN Docket No. 10-159, Seventh Broadband Deployment Notice of Inquiry, FCC 10-148 (rel. Aug. 6, 2010) (“*Deployment NOI*”).

for which the support is intended.” 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.*** High-cost loop support is available to rural carriers “to maintain existing facilities and make prudent facility upgrades” ***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.*** Rural carriers may consider both their present and future needs in determining what plant to deploy, knowing that prudent investment will be eligible for support. The measures that we adopt in this Order will increase incentives for carriers to modernize their plant by increasing the total amount of high-cost loop support available under the cap.¹³²

Current 3G networks allow consumers to access the nine services supported by the universal service program through Voice Over Internet Protocol (“VoIP”) platforms, such as, for example, those operated by Vonage or Skype. As long as ETCs provide access to all nine supported services, it is in the public interest to encourage deployment of dual-purpose networks that permit access to voice, while also providing access to broadband.

LTE networks now being deployed will be capable of allowing both voice and data applications to flow through the same equipment. That is, all of the supported services will be carried as IP traffic. Allowing companies such as U.S. Cellular to ***immediately*** use support flowing from the existing mechanism to invest in dual-purpose broadband technologies, such as LTE and existing 3G technology, is the best way to demonstrate to Congress that the Commission is taking ***immediate and concrete*** steps to accelerate broadband deployment in rural America.

¹³² *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11322 (para. 200) (emphasis added).

B. Grant the Corr Wireless Request for Review.

The Corr Wireless request for review is ripe for action.¹³³ Corr's request for review asks the Commission to confirm that the cap on high-cost support to CETCs, adopted pursuant to a notice and comment rulemaking, cannot be modified by the Verizon-Alltel merger order.¹³⁴ If the Commission follows the recommendation of the Universal Service Administrative Corporation, millions of dollars in support that could be used by wireless carriers to invest in advanced broadband networks will be foregone.¹³⁵ Given that the new funding mechanisms have not yet been formally proposed, it is fair to conclude that actual use of support to deploy broadband will be delayed by years.

Any delay in taking action that would improve broadband deployment does not serve the public interest, does not comply with the Communications Act's directive to take immediate action, and certainly does not respond to Senator Rockefeller's urging that the Commission move with dispatch.

¹³³ See Request for Review by Corr Wireless Communications, LLC, of Decision of Universal Service Administrator, CC Docket No. 96-45, WC Docket No. 05-337, filed Mar. 11, 2009.

¹³⁴ A more detailed discussion can be found in a letter recently filed with the Commission on behalf of the Alliance of Rural CMRS Carriers ("ARC"). See Letter from David A. LaFuria, Counsel for Alliance of Rural CMRS Carriers, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 08-95, WT Docket No. 08-94, CC Docket No. 96-45, WC Docket No. 05-337, filed July 26, 2010. The ARC letter addresses both the Verizon-Alltel merger and the Sprint-Clearwire merger.

¹³⁵ See RTG Comments at 16:

[I]t appears certain now that this support [*i.e.*, competitive ETC support to be received by Sprint and Verizon as a result of the mergers] will not be available as part of the capped support available to remaining smaller ETCs, many of whom have seen their support amounts decimated by the FCC's so-called "interim" cap that has been interim for well over two years. RTG notes for the record that the Commission's lack of transparency and apparent intent to force this decision on the industry without seeking adequate comment is contrary to the Administrative Procedure Act.

VIII. CONCLUSION.

The Commission deserves credit for beginning to define, in the *NOI* and *NPRM*, some bold initiatives to pave the pathway to new universal service mechanisms to support broadband deployment. Nonetheless, the record reflects serious concern that, at critical junctures, these proposed initiatives could seriously compromise the opportunity for mobile wireless broadband providers to bring their networks and services to rural America.

Chairman Genachowski has accurately described the potential of mobile broadband: “No area of the broadband ecosystem holds more promise for transformational innovation than mobile. . . . While mobile broadband is still in the preliminaries . . . we’ve seen enough to say some things definitively: This is a sector that can fundamental[ly] transform our society and economy.”¹³⁶

[Remainder of page intentionally blank.]

¹³⁶ Chairman Genachowski Speech at 2-3.

U.S. Cellular urges the Commission, as it moves forward with this rulemaking, to heed the observations of the Chairman and to ensure that its USF reforms, in shifting the focus of support to broadband, effectively harness and facilitate the transformational capabilities of mobile broadband.

Respectfully submitted,

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