Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Petition for Waiver of Universal Service High-Cost Filing Deadlines	)	WC Docket No. 08-71
	)	
Smith Bagley, Inc.	)	
	)	
Request for Review of Decision by Universal Service Administrator	)	

COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.

Qwest Communications International Inc. (Qwest), submits these comments in accord with the Federal Communications Commission's (Commission) Public Notice regarding Smith Bagley, Inc's (SBI) Request for Review of Decision of Universal Service Administrator and Request for Declaratory Ruling filed on July 6, 2010 in the above-referenced dockets.[1] Qwest's comments here only address SBI's request for a declaratory ruling and oppose that request. Qwest disagrees with SBI about how the Universal Service Administrative Company (USAC) should calculate Interstate Access Support (IAS) for incumbent local exchange carriers (ILECs) under the Commission's *Interim Cap Order*[2] and existing rules.

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[1] Public Notice, "Comment Sought on the Smith Bagley, Inc. Request for Review of a Decision of the Universal Service Administrative Company and a Request for Declaratory Ruling," DA 10-1350 (July 22, 2010).

[2] *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Alltel Communications, Inc., et al., Petitions for Designation as Eligible Telecommunications Carriers; RCC Minnesota, Inc. and RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, Order, 23 FCC Rcd 8834 (2008) (*Interim Cap Order*), *aff'd sub nom., Rural Cellular Association v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

SBI argues that USAC is not correctly calculating ILEC IAS because under the *Interim Cap Order* USAC is "to adjust IAS to ILECs upwards or downwards at the same rate of growth or loss in ILEC line counts."[3] SBI draws this conclusion from interpreting the following two sentences in the *Interim Cap Order*: "The annual amount of IAS available for incumbent LECs shall be set at the amount of IAS that incumbent LECs were eligible to receive in March 2008 on an annual basis. This amount shall be indexed annually for line growth or loss by price cap incumbent LECs."[4] SBI's interpretation is incorrect. The correct understanding of the language is that the annual amount of IAS available for incumbent LECs that is established in the first sentence is the annual amount of IAS that is available for ILECs each year in the aggregate for the duration of the interim period. The annual indexing referenced in the second sentence is the process that USAC already uses to calculate IAS, expressly applied to the ILEC pool.[5]

It is important to keep in mind the Commission's purpose behind splitting IAS into two pools in the *Interim Cap Order*. In the *Interim Cap Order*, the Commission took immediate steps to curb the excessive growth in high-cost support to competitive eligible telecommunications carriers (CETCs) by capping the high-cost support available to CETCs. But, the Commission recognized that even in taking this step, the continued growth in CETC lines would still have the effect of reducing IAS to ILECs due to the formula used to calculate

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[3] SBI Request at 9.

[4] *Interim Cap Order*, 23 FCC Rcd at 8849 ¶ 35 (references omitted).

[5] The current rules for calculating IAS already require that "[i]n any study area within which the price cap local exchange carrier has established state approved geographically deaveraged rates for UNE loops, the Administrator shall calculate the Interstate Access Universal Service Support Per Line for each customer class and zone using all eligible telecommunications carriers' base period lines by customer class and zone adjusted for growth during the relevant support period based on the average nationwide annual growth in eligible lines during the previous three years." 47 C.F.R. § 54.807(c).

that support.[6] In order to prevent continued CETC line growth from reducing ILEC IAS the Commission split IAS into two pools – one pool for CETCs and one for ILECs. The amount of IAS for the ILEC pool was set as the amount of IAS apportioned to ILECs in March 2008 annualized. Similarly, the amount of IAS for the CETC pool was set as the amount of IAS apportioned to CETCs in March 2008 annualized. USAC would then apply the existing formula for calculating IAS for the lines within each pool. The annual indexing referenced by the Commission is the usual process of USAC applying the IAS formula to recalculate the amount of support per line in each UNE loop zone based on submitted carrier line counts.[7] As stated by the Commission, the whole point of splitting the IAS was to prevent any reduction in IAS to ILECs. SBI's interpretation is contrary to this explicit intent.

Further, even if, the Commission intended a new indexing process for the ILEC pool, nothing in the *Interim Cap Order* requires the direct correlation to overall line growth or loss by ILECs that SBI proposes. In the absence of a more explicit statement regarding indexing, the Commission should avoid inventing wholly new approaches for calculating ILEC IAS, especially where the emphasis in the *Interim Cap Order* regarding IAS was to minimize the changes to that support. Initially, the changes to IAS were only made to avoid reduction of IAS to ILECs. Further, after taking the few steps necessary to protect IAS for ILECs, the Commission "direct[ed] USAC to calculate and distribute IAS for each pool to eligible carriers consistent with the existing IAS rules."[8] The Commission's intent here was to leave the ILEC IAS as intact as possible; not to create whole new processes for calculating that support.

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[6] *Interim Cap Order*, 23 FCC Rcd at 8849 ¶ 35.

[7] *See*, *e.g.*, 47 C.F.R. § 54.807(c).

[8] *Interim Cap Order*, 23 FCC Rcd at 8849 ¶ 35 (reference omitted).

Still further, SBI's approach is tantamount to freezing ILEC IAS per-line support. If this were what the Commission intended it could have said so explicitly. The fact that the Commission did not say so strongly suggests that it is not what the Commission intended.

Qwest has no way to know exactly how USAC is calculating ILEC IAS.[9] But, at this time Qwest has no reason to believe that USAC is performing that calculation incorrectly. SBI's interpretation as to how USAC should be calculating ILEC IAS is contrary to the purpose underlying the creation of the separate ILEC IAS pool and is not supported by the Commission's existing rules. As such, it is not a sufficient basis for altering USAC's current IAS calculations.

For these reasons, the Commission should deny SBI's request for a declaratory ruling that total ILEC IAS must be increased or decreased directly in proportion to the rate of growth or loss in ILEC lines.

Respectfully submitted,

QWEST COMMUNICATIONS
INTERNATIONAL INC.

By: /s/ Tiffany West Smink
Craig J. Brown
Tiffany West Smink
607 14th Street, N.W.
Suite 950
Washington, D.C. 20005
303-383-6619
craig.brown@qwest.com
tiffany.smink@qwest.com

Its Attorneys

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[9] Only USAC has all of the line count data necessary to perform the calculations.

CERTIFICATE OF SERVICE

I, Eileen Kraus, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be: 1) filed with the FCC via its Electronic Comment Filing System in WC Docket Nos. 05-337, 08-71; 2) served via email on Mr. Theodore Burmeister at Theodore.Burmeister@fcc.gov and Mr. Charles Tyler at Charles.Tyler@fcc.gov, both of the Wireline Competition Bureau, Federal Communications Commission; and 3) served via e-mail on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com.

/s/ Eileen Kraus

August 23, 2010