

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Inquiry Concerning the Deployment of) GN Docket No. 10-159
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)

To: The Commission

REPLY COMMENTS OF THE BLOOSTON RURAL CARRIERS

The law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP (“Blooston”), on behalf of its rural local exchange carrier (“RLEC”) clients listed in Attachment A (the “Blooston Rural Carriers”), respectfully submits the following reply comments with respect to the Commission’s *Seventh Broadband Deployment Notice of Inquiry*, FCC 10-148, released August 6, 2010 (“NOI”) in the above captioned proceeding.

The Blooston Rural Carriers write to support the comments of the National Telecommunications Carriers Association (NTCA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), particularly in their assertions that the Commission must use up-to-date sources of information, such as recent Form 477 filings, instead of the National Broadband Plan Model or the inaccurate data it has produced. Further, the Blooston Rural Carriers also write to oppose the suggestions by Verizon that rate-of-return regulation should be replaced by incentive-based regulation and that the Universal Service Fund should be reallocated to broadband deployment. The Blooston Rural Carriers also urge the

Commission to take the opportunity to address lingering issues that currently plague broadband deployment through USF contribution base reform and phantom traffic regulation.

I. The Broadband Assessment Model Cannot Accurately Measure Broadband Availability for Rural Areas

The Blooston Rural Carriers asserted in their original comments that the Broadband Access Model is flawed to the point that it simply cannot provide an accurate assessment of rural broadband deployment.¹ Both NTCA and OPASTCO filed separate but parallel comments likewise discussing the general incompatibility of the Model with this purpose.² As all of these filings point out, this is not the first time the parties have raised concerns with the Model and its reliability and applicability.³ The Blooston Rural Carriers therefore support the comments of NTCA and OPASTCO in this regard. As NTCA and OPASTCO both point out, the Model is simply too “coarse-grained”, going on to point out specific flaws in the Model which, to date, have still not been addressed.⁴ The Model cannot accurately depict the extent to which particular areas are “unserved” because it imputes coverage based on where carriers are licensed to provide service, rather than actually accounting for service.⁵ The Model completely underestimates the cost of deploying, maintaining, and upgrading rural broadband facilities since it does not consider the cost of maintaining existing wireline facilities.⁶ The Model assumes costs based on

¹ Comments of the Blooston Rural Carriers, GN Docket No. 10-159, filed September 7, 2010. (Blooston Comments).

² Comments of the National Telecommunications Carriers Association, GN Docket No. 10-159, at §III, filed September 7, 2010 (NTCA Comments); Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies, GN Docket No. 10-159, at §VII, filed September 7, 2010 (OPASTCO Comments).

³ Comments of the Blooston Rural Carriers, WC Docket no 10-90, GN Docket No. 09-51, WC Docket No. 05-337, filed July 12, 2010 (Blooston USF Reform Comments)

⁴ See NTCA Comments at §III; OPASTCO Comments at VII

⁵ NTCA Comments at §III

⁶ OPASTCO Comments at VII.

mid-sized carriers, even though costs are significantly higher for small carriers.⁷ The Model has never been statistically validated, nor has it been made available for public testing.⁸ Middle-mile capacity was not included as a variable.⁹ These are just a few of the flaws the Blooston Rural Carriers and the Associations have highlighted in past filings. The Blooston Rural Carriers urge the Commission to disregard and discontinue its use of the Model for rural broadband determinations.

II. Current Regulatory Mechanisms Have Led to Successful Rural Deployment

The Blooston Rural Carriers also support NTCA and OPASTCO in their assertions that current regulatory mechanisms, such as rate-of-return regulation and federal universal service support, have a long and proven record of success in encouraging and enabling rural carriers to deploy broadband-capable networks and broadband services in a timely and efficient manner. Notwithstanding their small size and limited financial resources, rural carriers currently provide some form of “broadband” facilities and service (albeit, not always service at 4 Mbps or more downstream and 1 Mbps or more upstream) to approximately 90 percent of their customers. In stark contrast, Verizon and other large and financially powerful former Regional Bell Operating Companies have opted to use their resources to invest in ventures other than their rural exchanges. As the Commission has recognized, approximately half of the rural customers without access to “broadband” services are located in RBOC rural exchanges.¹⁰

Verizon continues to advocate the redistribution of high-cost support away from rural carriers to RBOCs, mid-sized carriers and other large entities via devices such as the “repurposing” of the universal service fund and the replacement of rate-of-return mechanisms

⁷ NTCA Comments at 5.

⁸ Blooston Comments at 4.

⁹ NTCA Comments at 6.

¹⁰ Federal Communications Commission, *Connecting America: The National Broadband Plan* (March 16, 2010)

with incentive-based mechanisms.¹¹ Verizon fails to explain how price cap and similar incentive mechanisms that have been wholly unsuccessful in providing incentives for it and its fellow large carriers to upgrade their rural exchanges will somehow be able to encourage much more financially limited rural carriers to do so. As the Blooston Rural Carriers, NTCA, OPASTCO, and others have pointed out, the more reasonable and effective approach is for the Commission to retain and strengthen the mechanisms that have been enabling rural carriers to deploy broadband capable networks successfully, and to study reforms that will provide effective incentives for the larger RBOCs and mid-sized carriers to upgrade their rural exchanges.¹²

III. Immediate Steps to Increase Broadband Deployment

The Blooston Rural Carriers also support NTCA and OPASTCO in their suggestions regarding the actions the Commission should take to accelerate broadband deployment if it determines broadband is not available to all Americans in a reasonable and timely manner. As both NTCA and OPASTCO propose, the USF contribution methodology should be modified to expand the base of contributors in an equitable and economically efficient manner.¹³ Such an expanded contribution base will allow for “prudent growth in the size of the USF necessary to achieve and maintain “reasonably comparable” broadband in RLEC service areas.”¹⁴

Likewise, the Blooston Rural Carriers agree that the Commission can act immediately to resolve the arbitrage and evasion issues that have disrupted the interexchange toll business and the interstate revenue base that currently supports the universal service fund : (1) by imposing

¹¹ Comments of Verizon and Verizon Wireless, GN Docket No. 10-159, at 37-38, filed September 7, 2010.

¹² Blooston USF Reform Comments at pages 16-17; NTCA Comments at §IV; OPASTCO Comments at 8-9.

¹³ Comments of NCTA at 11; Comments of OPASTCO at 10.

¹⁴ Comments of OPASTCO 18.

and enforcing call signaling requirements to reduce or eliminate phantom traffic; and (2) by clarifying that VOIP traffic is subject to access charges.

IV. CONCLUSION

The Blooston Rural Carriers respectfully submit that the Broadband Access Model is simply unfit for use in this context and has no place in the Commission's fulfillment of its duties under §706. Further, the Blooston Rural Carriers concur with the sentiments of NTCA and OPASTCO regarding the future of current regulatory mechanisms such as rate-of-return and federal universal service support, and vehemently oppose Verizon's suggestion to do away with the former and repurpose the latter. The Blooston Rural Carriers likewise concur with NTCA and OPASTCO in their identification of the most immediate concerns of the Commission in encouraging rapid broadband deployment – namely, expansion of the USF contribution base and curtailment of phantom traffic.

Respectfully submitted,

THE BLOOSTON RURAL CARRIERS

By: /s/ Benjamin H. Dickens, Jr. .

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ATTACHMENT A

Blooston Rural Carriers

All West Communications, Inc.
BEK Communications Cooperative
Delhi Telephone Company
East Ascension Telephone Company, LLC
ENMR Telephone Cooperative, Inc.
Five Area Telephone Cooperative, Inc.
Granite State Telephone, Inc.
Harrisonville Telephone Company
Hinton Telephone Co., Inc
Horizon Telcom, Inc.
Penasco Valley Telephone Cooperative, Inc.
Pinnacles Telephone Company
Shawnee Telephone Company
South Central Utah Telephone, Inc.
South Dakota Telecommunications Association
South Slope Cooperative Telephone Co., Inc.
SRT Communications, Inc.
Triangle Telephone Cooperative Association, Inc.
Tri-County Communications Cooperative, Inc.
UBTA-UBET Communications, Inc.
United Telephone Association, Inc.
Waitsfield-Fayston Telephone Company, Inc.