Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
High Cost Universal Service Support	)	WC Docket No.05-337
Federal-State Joint Board on Universal Service	)	
Request for Review of Decision of Universal	)	CC Docket No. 96-45
Administrator by Corr Wireless	)	
Communications, LLC	)	

THE PUBLIC SERVICES COMMISSION
OF THE
UNITED STATES VIRGIN ISLANDS

COMMENTS

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COMMENTS

The Public Services Commission of the United States Virgin Islands (VI PSC) respectfully submits its comments in the above referenced proceeding in response to the Notice of Proposed Rulemaking (NPRM) released September 3, 2010.

Summary of Comments

The NPRM proposes to reduce the amount of support for competitive eligible telecommunications carriers (CETCs) in each state when an existing CETC relinquishes its ETC status. The recaptured funds would be used as a "down payment" on the broadband fund under consideration by the FCC.

Because of our unique circumstances, this proposal could seriously undermine universal access to basic wireless services in many areas within the Virgin Islands. The Virgin Islands largest CETC (Centennial USVI Operations) recently petitioned for relinquishment and the only other CETC (Choice Communications, LLC) just entered the market and has few customers.

Both CETCs are wireless carriers. We strongly urge the Commission not to adopt the proposal or, alternatively, to grant an exception since it would effectively leave the Virgin Islands with little to no universal service support for the remaining CETC or for future CETCs, a consequence that we believe is not the FCC's intention.

Loss of USF support for CETCs will translate into fewer jobs for our residents and reduced economic activity. Under the regulatory oversight of the VI PSC, the CETCs would have continued to use USF to build network facilities, particularly in the areas that are currently unserved. The Virgin Islands, while physically small, have steep mountains and deep valleys and the terrain requires significant infrastructure to avoid large dead service areas. According to both CETCs, such construction would not be economically feasible in the absence of USF support. Therefore, the CETCs would not need as many workers if USF support is not provided.

We are also concerned that the proposed rule would have a chilling effect on any new carriers that might otherwise seek ETC status, since there would be little or no funding available to them. This has long range negative implications for the Virgin Islands, especially if the FCC moves ahead with plans for the mobility and broadband funds. The Territory would be less likely to benefit from the new federal policy goal of increased broadband use and services if there are no eligible bidders and no funding to provide the necessary infrastructure.

We recognize that the FCC has long sought to rein in the costs of the USF programs and that it desires to jump start broadband deployment. However, the proposed rule disproportionately disadvantages the Virgin Islands. Therefore, the VI PSC formally requests that if the Commission adopts the proposed rule, that an exemption or "carve out" be made for the Territory.

The Proposed Rule Could Eliminate Any Support of CETCs in the USVI

Currently, the USVI has two CETCs: Centennial USVI Operations (Centennial) and Choice Communications, LLC (Choice). Centennial serves about 4,800 customers, about seven percent (7%) of the supported lines in the Territory, and receives approximately $950,000.00 per year in support.[1] Centennial was granted ETC designation in 2008. Choice was granted its ETC designation in 2010 and only within the past month started providing voice grade services. It currently receives no USF assistance and will not start receiving any until it files the number of supported customer lines in accordance with Section 54.307. As is the case for all new market entrants, it will take some time before Choice captures a significant share of the wireless voice market. Under current rules, Centennial and Choice would have shared the capped CETC support in proportion to their relative number of customer lines.

However, Centennial was acquired by AT&T in November, 2009. On August 5, 2010, AT&T petitioned the VI PSC to relinquish Centennial's ETC designation under Section 54.209 of the Commission's rules. That request is currently under review. According to AT&T, continued participation in the USF support program is no longer consistent with its long term business strategy. AT&T has not requested a "Use" Certification from the VI PSC under Section 54.314. Consequently, it will not receive high cost support starting January, 2011.[2]

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[1] The FCC recently corrected the cap for the USVI. Under the current calculation, the cap for CETCs in the Territory was increased retroactively to $1.4 million. See letter dated August 24, 2010, from Sharon Gillett, Chief, Wireline Competition Bureau to Karen Majcher, Vice President, Universal Service Administrative Company.

[2] Centennial retains the right to request "Use" Certification until its request for relinquishment of its ETC designation is approved.

Under the proposed rule, the relinquishment of ETC status by our largest CETC could effectively reduce the cap to almost zero[3] and could jeopardize basic wireless access in those areas that are currently under-served or unserved.[4] If no USF funds are available, no carrier would apply for ETC designation and there would be no obligation for any carrier to build wireless infrastructure in those areas.

CETCs In The USVI Receive Much Lower USF Support Than Other Rural Areas In The U.S.

As noted in our previous comments on USF issues, our biggest concern has been with the size of the funds that would be made available in the Virgin Islands. Under the current USF high cost support programs, CETCs in the Virgin Islands receive proportionately far less than their counterparts on the U.S. mainland.[5] This is principally due to the timing of, and late emergence of, CETCs relative to the imposition of interim USF funding caps by the FCC. Assuming the proposal to reduce universal service funding when a CETC relinquishes its designation is adopted by the FCC, an already bad situation will be made much worse. The Virgin Islands is in need of more USF support, not less. The actions proposed in the NPRM will increase the disparity in support between the U.S. mainland and the Virgin Islands. Most states have more than one well established CETC. The loss of one CETC in those states may not have a serious impact on the remaining CETCs or on the deployment of basic infrastructure. However, in the

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[3] The schedule for implementing the proposed new rule is unknown at this time. If it was implemented immediately or retroactively to prior to the commencement of Choice's voice grade services, CETC support would be zero. If implementation was delayed, it is possible Choice will pick up some customers and would receive some support.
[4] There are currently many areas in the Virgin Islands where wireless coverage is poor or non-existent. This is the result of several factors. First, the mountainous terrain and steep valleys require more wireless towers and related equipment. Second, economic factors encourage all wireless carriers to concentrate on geographic areas that are most profitable. Both CETCs made commitments to the VI PSC to deploy improved or new infrastructure in under-served or unserved areas.
[5] Based on data in Table HC01 of the USAC FCC filing for the first quarter of 2010, CETCs in rural areas receive 38% as much high cost USF support as rural ILECs. CETCs in the USVI receive 7.8% as much USF as the ILEC.

Virgin Islands, loss of Centennial would mean the cap would be reduced to the point where USF support of other CETCs could be non-existent or so minimal as to be negligible.

We continue to believe the FCC should exempt USVI CETCs from the interim cap and to continue the per-line support under the identical support rule without a cap at least until three or more CETCs provide services in the Territory. The proposed rule goes in the opposite direction.

The Pool Of Support Should Be Redistributed When A CETC Relinquishes Its ETC Designation.

The FCC has proposed that when a CETC relinquishes its designation, any unclaimed USF support in a state should be reserved for the broadband program rather than be redistributed to the remaining CETCs. We believe this to be fundamentally unfair and counterproductive in our circumstance. We understand the need to rein in CETC support on a nationwide basis but the impact of the Commission's decisions on each state is very uneven. Those states with many CETCs remain basically unaffected by the relinquishment of one CETC while other states with few CETCs like ours could lose the majority of CETC funding. Further, some states have long established CETCs while the CETCs in other states may have only recently been designated and serve relatively few lines, as is the situation in the Virgin Islands. To a large extent, the size and date of market entry of a competitive exchange carrier is the result of the attractiveness of each market. New carriers did not enter rural markets at the same rate in every state. The Commission should not adopt the rules for the Virgin Islands that perpetuate disparities between states that are the result of accidents of history. Instead, the full capped amount should be redistributed among the CETCs by readjusting the reduction factor for each state.

The FCC asserts that "additional support would not necessarily result in future deployment of expanded services."[6] No support was provided for this statement. It is certainly not true for the Virgin Islands. Consistent with the FCC's ETC Designation Order,[7] the VI PSC required both CETCs to file five-year plans and annual updates. We relied on these plans when approving the carriers' annual "Use" Certifications. The plans included infrastructure placement and upgrades that would be made only if USF were made available. If the proposed rule recapturing relinquished USF is implemented, there would be little to no funding for the commitments made by Choice. Further, no new carriers would apply for ETC designation, meaning there would be financial disincentives for the improvement or installation of new infrastructure; entirely the wrong message for a program intended to foster increased service and competition. This outcome would surely undermine the major tenets of the FCC's policies regarding universal telecommunications access.

The VI PSC does not oppose recapture of unexpended funds for use in connection with broadband initiatives provided that the state CETC cap is not reduced when a carrier relinquishes its ETC designation. If all funds are redistributed among the remaining CETCs in a state, there could be unexpended funds if the remaining CETCs in total serve fewer lines than had been served by the relinquishing CETC. In the Virgin Islands, Centennial served 4,800 customers and the cap was set at $1.4 million. Thus support per line is $281.67. Assume Choice captures 1,000 customers after Centennial relinquishes its ETC designation. It would receive $281,670.00 in USF support, leaving $1.1 million unexpended. The amount of unexpended funds can only be determined after the fact, i.e., after the close of each quarter by USAC. The Commission must

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[6] NPRM at 24.

[7] In *the Matter of Federal-State Joint Board on Universal Service*, Report and Order, released March 17, 2005, FCC 05-46

allow time for the remaining CETCs to capture customer lines that had been served previously by the relinquishing CETC.

The Proposed Rule Jeopardizes Wider Deployment Of Future Mobile And Broadband Services In The Virgin Islands.

Under the Telecommunications Act of 1996, only ETCs may receive federal USF support. If the support that had been provided to a relinquishing CETC is deducted from each state's interim cap, fewer carriers will seek ETC designation, especially where the cap is very low to start with. In our situation, we fear that no carriers would have the incentive to build infrastructure other than the ILEC. The Virgin Islands already lags behind the rest of the country in both wireless and broadband service. We urge the Commission not to put rules into place for the Virgin Islands that will hinder our future telecommunications development and ask that it grant us an exception if the proposed rule is adopted.

Respectfully submitted,

The Virgin Islands Public Services Commission

By: Joseph B. Boschulte
Chairman

Dated: October 7, 2010