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November 1, 2010

Via ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *High-Cost Universal Service Support*
WC Docket No. 05-337

Federal-State Joint Board on Universal Service
CC Docket No. 96-45

Request for Review of Decision of Universal Service Administrator by
Corr Wireless Communications, LLC

Notice of Ex Parte Presentation

Dear Ms. Dortch,

The Rural Telecommunications Group, Inc. (“RTG”) submits this *ex parte* filing addressing issues raised by various parties in the Federal Communications Commission’s (“FCC” or “Commission”) Corr Wireless proceeding.¹

I. Amending the Interim Cap Rule and Not Redistributing Reclaimed Support to Existing ETCs Will Result in Harm.

In the Corr Wireless Order and Notice of Proposed Rulemaking (“NPRM”), the Commission first declined to redistribute reclaimed high-cost support to existing competitive eligible telecommunications carriers (“CETCs”), presuming that additional support will not necessarily result in future deployment of expanded service.² It then proposed amending the Interim Cap Rule so that a state’s interim cap amount would be adjusted if a CETC relinquishes

¹ *In re High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications, LLC*, WC Docket No. 05-337, CC Docket No. 96-45, Order and Notice of Proposed Rulemaking (Sep. 3, 2010) (“NPRM”).

² See NPRM at ¶¶ 10, 11.

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its ETC status, assuming existing CETCs will not be harmed.³ The record in this proceeding, however, belies both of these assumptions, demonstrating that (1) redistributing support to existing wireless CETCs *will* help increase the number of wireless networks in rural areas, and (2) consumers in rural areas throughout the country *will* be harmed by the Commission's decision not to redistribute the so-called "reclaimed" support.

Existing CETCs generally support redistributing the reclaimed high-cost support in order to help them expand their wireless networks and serve customers, and *not* to receive a "windfall" as is claimed by some. Many parties have attempted to portray existing wireless CETCs as acting solely to increase their universal service support at the expense of consumers.⁴ This is incorrect and contrary to the FCC's established universal service rules that require high-cost support to be used for the provision of universal service.⁵

Existing wireless CETCs will use additional support to deploy advanced networks, cover unserved areas, and make available mobile broadband, ensuring that consumers in all regions of the nation have access to affordable services. The Commission has recently acknowledged that while some areas lacking 3G coverage have some level of mobile voice service, other areas have no mobile wireless service at all.⁶ Immediately redistributing the reclaimed high-cost support will help achieve the goals set out in the Commission's recently proposed Mobility Fund. Rather than taking only a small sliver of the reclaimed funds and distributing it using an unproven and burdensome reverse auction as is proposed in the Commission's Mobility Fund NPRM, the Commission should take the reclaimed funds and distribute them as soon as possible to existing CETCs to bolster wireless networks.

RTG opposes the permanent amendment of the Interim Cap Rule so that if a CETC relinquishes its ETC status in a state, the cap amount for that state is reduced by the amount of support that the CETC was eligible to receive in its final month of eligibility. This rule change will harm rural areas by resulting in a reduction of support flowing to CETCs. The Interim Cap Rule has stalled the deployment of advanced wireless networks in rural areas and amending the rule to further reduce support will only exacerbate the problem.⁷

Comments filed in this proceeding offer data that demonstrate numerous CETCs will see a sharp drop in their amount of support when a carrier relinquishes its ETC status, which directly refutes the Commission's assumption that existing CETCs will not be harmed by the proposed

³ See *Id.* at ¶ 24.

⁴ See, e.g., Reply Comments of Verizon and Verizon Wireless, WC Docket No. 05-337 (Oct. 21, 2010).

⁵ See 47 U.S.C. § 254(e) (requiring carriers that receive universal service support to use it only for the provision, maintenance, and upgrading of universal service facilities and services); see also 47 C.F.R. § 54.209 (requiring, among other things, that ETCs submit progress reports on five-year service quality improvement plans, which must include an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity).

⁶ *Universal Service Reform, Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking, FCC 10-182 at ¶ 32 (rel. Oct. 14, 2010) (Mobility Fund NPRM).

⁷ See Comments of Cellular One at p.4-6.

rule.⁸ The most extreme example of harm could occur in the U.S. Virgin Islands where under the proposed rule, relinquishment of CETC status by its largest CETC could effectively reduce the cap to almost zero and therefore jeopardize basic wireless access in its underserved or unserved areas.⁹ Instead of adopting the proposed rule that would effectively deny CETCs additional high-cost support that they can use to serve the public interest and advance universal service, the Commission should amend the Interim Cap Rule so that if an ETC relinquishes its ETC status, its support is redistributed to existing ETCs.

II. The Commission Should Not Reclaim High-Cost Support and Reserve It Indefinitely for Unspecified Purposes.

Many interested parties have weighed in on the Commission's plan to take reclaimed funds from one universal service program and reallocate them to other, new broadband programs, even though it has not adopted any rules to govern these new support programs. The general consensus is that the proposed action is neither appropriate policywise nor, more importantly, is it legal under the Communications Act.¹⁰ RTG agrees that "universal service reform must be based upon a solid legal foundation."¹¹ The Commission's decision to bank reclaimed high-cost support for future use does not rest on a solid legal ground when scrutinized under the universal service provisions of the Communications Act.

Section 254(b)(5) of the Communications Act requires that the Commission's universal service policies must be based on specific, predictable and sufficient mechanisms.¹² Any relinquished support that is reclaimed by the Commission must flow to a precise universal service mechanism. Furthermore, the contribution obligation found in section 254(d) requires telecommunications carriers to contribute to mechanisms that have already been established.¹³ Reserving and earmarking reclaimed funds for programs that are yet to be created is speculative, uncertain, unpredictable, and violates the Act.

Additionally, as has been explicitly noted by SouthernLINC Wireless and the Universal Service for America Coalition, a court would likely strike down the Commission's plan to expand its universal service authority and amass reclaimed funds for an indefinite period of time and undetermined use.¹⁴ The possibility of a protracted court contest creates uncertainty and will undermine any broader universal service reforms. Instead of adopting the proposals set out in the Corr Wireless Order and NPRM, the Commission should take quick action to redistribute the

⁸ See, e.g., Comments of Rural Cellular Association at p. 3-6 (detailing how reclaiming support from relinquishing CETCs will drastically reduce the total amount of high-cost support available to certain states and individual CETCs within those states).

⁹ Comments of the Public Services Commission of the U.S. Virgin Islands at p. 4 (Oct. 7, 2010).

¹⁰ See, e.g., Comments of Sprint, at p. 4; Comments of Verizon and Verizon Wireless at p. 5; Comments of RICA at p. 5.

¹¹ See SouthernLINC Wireless and the Universal Service for America Coalition, Reply to Oppositions to Petition for Partial Reconsideration, WC Docket No. 05-337, CC Docket No. 96-45, p.1 (Oct. 21, 2010).

¹² 47 U.S.C. § 254(b)(5).

¹³ *Id.* at § 254(d).

¹⁴ See Petition for Partial Reconsideration, SouthernLINC Wireless and the Universal Service for America Coalition, WC Docket No. 05-337, CC Docket No. 96-45 (Sep. 29, 2010).

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reclaimed support to existing ETCs for use in expanding wireless voice and mobile broadband networks.

Should you have any questions or require additional information, please do not hesitate to contact me.

Respectfully submitted,

Rural Telecommunications Group, Inc.

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