Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Universal Service Reform	)	WC Docket No. 10-208
	)	
Mobility Fund	)	
	)	

COMMENTS OF
TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.

I. INTRODUCTION AND SUMMARY

Texas Statewide Telephone Cooperative, Inc. (TSTCI) hereby submits these comments regarding the Mobility Fund in response to the Notice of Proposed Rulemaking (NPRM) released by the Federal Communications Commission (Commission or FCC) in the above referenced docket. TSTCI is an association representing 39 small rural incumbent telephone companies and cooperatives in Texas. (See Attachment 1.) TSTCI member telephone companies and cooperatives serve over one third of the geographic area of Texas encompassing approximately 90,000 square miles. These companies serve an average of 5.5 customers per square mile, with one third of the companies servicing less than one customer per square mile. The vast majority of TSTCI members' customers (over 80%) have access to fixed broadband services at speeds at or above 768 kbps/200 kbps.

Consumers in rural areas have the same needs and desires for broadband services as those consumers in urban areas of the country. Indeed, federal law requires that "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have 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." (47 U.S.C. §254 (b)(1)(3)) As technologies have evolved, wireline and wireless services (telecommunications and most recently broadband) have been utilized as complementary services by consumers. If broadband access is to become a supported service under the Universal Service definition, as envisioned by the National Broadband Plan (NBP), TSTCI believes that the availability of comparable services entails access to both wireline and wireless broadband services. Although wireline and wireless services may be complementary, the universal service support mechanisms to enable comparable services and prices in rural high-cost areas as proposed in the NBP should not be interchangeable. The regulatory requirements (including provider of last resort obligations) and the costs of the rural fixed broadband providers are very different than those of the wireless providers when provisioning services to rural, high-cost areas, and the methods for determining the support necessary to fulfill the goal of universal service must be tailored accordingly. Universal service support necessary in high-cost areas to ensure that all Americans have broadband access, should be based upon the actual costs of providing the service, and the support must be specific, predictable, and sufficient to provision and maintain the facilities.

The Commission proposes to establish a Mobility Fund to "jump-start" deployment of mobile broadband infrastructure where mobile broadband is currently not available. Through the use of auctions, support from the Mobility Fund will focus on the lowest per-unit cost areas. The creation of a Mobility Fund recognizes a funding methodology specifically for mobile services and therefore may be reasonable for the limited usage of expanding mobile broadband service. However, this fund should in no way detract from the importance of bringing comparable fixed broadband services to all rural consumers. It certainly should not be a precedent for the determination of universal service support for fixed broadband services deployed by the rural

ILECs with providers of last resort obligations in high cost rural areas. TSTCI encourages the Commission to move forward with revised programs to ensure that all Americans have access to reasonably comparable broadband services, speeds, and prices, including those in rural high-cost areas served by the nation's rural ILECs.

II. The Mobility Fund is Appropriate Only for the Limited Use of Expanding Mobile Service Coverage

The NPRM proposes to create a Mobility Fund from which one-time support will be given to improve coverage of current-generation or better mobile broadband service in areas currently unserved. It should be noted that "unserved" in the context of this NPRM does not necessarily mean *fixed* broadband service is not available; only that 3G or better *mobile* service is not available. Also, some "unserved" areas may have no mobile service at all, while other areas may have mobile service but lack access to 3G service.

The Commission seeks comment regarding the use of reserve funds ($100 million to $300 million) from the current Universal Service Fund to establish the Mobility Fund. The NBP recommends that universal service support surrendered by Verizon Wireless and Sprint Nextel be used for the Mobility Fund without increasing the overall size of the high-cost fund. TSTCI appreciates the Commission's desire to bring third generation (3G) or better mobile broadband services to areas currently lacking this service, particularly where those areas are high-cost rural areas. While this proposal may be reasonable for the limited purpose of expanding mobile broadband service by jump-starting 3G or better deployment in certain areas, the Commission must also continue focusing on the mechanisms to support fixed broadband in the rural high-cost areas that are served by the current providers of last resort – rural ILECs that already have significant investments in the infrastructure that not only is necessary to provide fixed broadband

service, but is also necessary for wireless service to exist. Regardless of the revisions to the support mechanisms (such as the establishment of the Connect America Fund) the Commission must uphold the basic universal service principles of specific, predictable and sufficient support to preserve and advance universal service and rural consumers having access to quality services at comparable speeds and prices as those available to non-rural consumers.[1]

The Commission asks questions regarding an optimal size for the Mobility Fund including, "What amount would be too small to effectively jump-start deployment so as to provide service in the places where it might not otherwise become available?"[2] This is a difficult, if not impossible, question to answer at this point. It must be remembered that the universal service funds being voluntarily surrendered by Verizon Wireless and Sprint Nextel under a merger commitment were not funds distributed to them based on the costs of these wireless companies providing mobile services in high-cost areas. These universal service funds were based upon the costs of incumbent local exchange companies deploying wireline facilities in rural, high-cost areas under the identical support rule, a rule that TSTCI has long opposed for determining support for competitive eligible telecommunications carriers (ETCs). If the Commission proceeds with auctions to determine USF support through the Mobility Fund, this may be the first inkling the Commission will have of the costs to deploy 3G or above technology in unserved areas, although this data will most likely be for relatively low-cost unserved areas that are more densely populated than the truly high-cost areas. (Universal service support would be focused on the unserved areas with the lowest per-unit cost- those areas that provide the most "bang for the buck" so to speak. [3])

[1] 47 USC 254(b)(3) and (5)
[2] NPRM, par. 14
[3] NPRM, par. 18

III. Reverse Auctions Should Not be Utilized Beyond the Limited Purpose of Mobility Fund

The NPRM proposes reverse auctions to determine which providers receive support, which specific areas will receive support, and at what levels. In the past TSTCI has generally opposed the use of reverse auctions as a means to determine and distribute universal service support.[4] This opposition has primarily been in the context of rural areas with existing infrastructure, and without reiterating all of its arguments in opposition to the use of reverse auctions in these circumstances, there are many unintended consequences that would emerge in the wake of a decision to commence auctions. The effect would be particularly egregious to the small ILECs including curtailed future investments, inability to obtain financing given the uncertainty of an auction's effect on the ability of the ILEC to repay loans; and stranded plant concerns, to name just a few. TSTCI explained that if the Commission resolved to make use of reverse auctions, they should only be used to determine support amounts in unserved areas, where there is no existing infrastructure or to determine support for mobile services and/or broadband Internet services in areas where services do not presently exist.[5] TSTCI believes the use of reverse auctions may be reasonable only for the limited purpose of expanding mobile broadband services to unserved areas. TSTCI strongly advocates that the Mobility Fund should not be a precedent for determining universal service funding for fixed broadband services and urges the Commission to reject the use of auctions to determine support within the Connect America Fund mechanisms.

---

[4] See Comments of TSTCI, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, filed July 12, 2010; WC Docket No. 05-337, CC Docket No. 96-45, filed April 17, 2008; WC Docket No. 05-337, filed May 31, 2007; WC Docket No. 05-337, filed October 10, 2006; Reply Comments of TSTCI, WC Docket No. 05-337, CC Docket No. 96-45 filed June 2, 2008; WC Docket No. 05-337, filed July 2, 2007.

[5] Reply Comments of TSTCI, CC Docket No. 96-45, WC Docket No. 05-337, June 2, 2008

IV. Process Needed to Dispute Designation of Unserved Areas

The NPRM proposes the use of American Roamer data to determine areas unserved by current-generation mobile wireless service and asks if there are alternatives that would be more reliable or better suited for identifying unserved areas.[6] TSTCI offers no recommendation or comment regarding the data that should be used to determine unserved areas. However, regardless of the method ultimately chosen to determine unserved areas, TSTCI recommends that a credible process be established for parties to be able to dispute the designation of an area as "unserved". The Commission recognizes that "data on mobile services coverage may change over a relatively short timeframe."[7] Therefore, it is incumbent upon the Commission not to expend universal service funds to support a wireless infrastructure in areas that are not, in fact, unserved. A process to dispute a carrier's designation of unserved areas similar to a response process used by the National Telecommunications and Information Administration (NTIA) and Rural Utilities Service (RUS) with applications for stimulus funds under the Broadband Initiatives Program and Broadband Technology Opportunities Program could be used.

V. Performance, Coverage, and Rate Comparability Requirements Require Regulatory Oversight

The NPRM seeks comment on minimum performance and coverage requirements that should be established in order for the service to be supported by the Mobility Fund. Without commenting directly on the actual performance or coverage metrics that should be required of auction winners, TSTCI believes it is worth noting that an auction based upon a low-cost bid will likely motivate the winner to do only the minimum required to meet service obligations. Lack of ongoing USF support may adversely affect the auction winner's willingness or ability to

[6] NPRM, par 23.
[7] NPRM, par. 24

maintain service standards, particularly in the long term, and will require vigorous regulatory oversight and enforcement of whatever standards are established. Whether or not the Mobility Fund is successful as a catalyst to provide ongoing mobile broadband service in rural areas comparable to urban areas - will likely not be known for years after much study.

The NPRM asks if supported networks should be required to present a path to 4G service.[8] Because the Mobility Fund has been proposed for the expansion of 3G or better mobile coverage in unserved areas, absence of such a path where the bidder will be deploying 3G facilities and equipment may relegate rural areas to inferior service for years as future generation technologies become standard. This could be a problem where the low-cost auction winner deploys 3G facilities and equipment that will be extremely costly or not readily capable of a later upgrade to 4G. Such an upgrade may be something the wireless broadband provider may be unwilling to do, given the "one-time" influx of universal service support funds. When awarding funding, the Commission needs to consider whether 3G facilities and equipment can be readily and economically converted to 4G and require the bidder to present a path to 4G service.

Also, the NPRM asks, "Given the absence of affirmative regulation of rates charged for commercial mobile services, as well as the rate practices and structures used by providers of such services, how can parties demonstrate that the rates they charge in areas where they receive support are reasonably comparable to rates charged in urban areas?"[9] Although the Commission may normally not have rate regulation authority over CMRS carriers, TSTCI assumes that one of the bid requirements is that the winning bidder agrees to charge comparable rates in rural areas as those charged in urban areas. By accepting universal service support, a mobile carrier has entered into a "regulatory contract" with the Commission whereby the Commission should have

[8] NPRM, par. 14
[9] NPRM, par. 38

the authority to collect all data from the mobile carrier necessary for the carrier to demonstrate the comparability of their rates. If the carrier fails to make the required showing, the carrier, after recourse for an appeal, should be required to return the universal service support.

VI. Conclusion

TSTCI does not oppose the creation of the proposed Mobility Fund for the one-time expansion of 3G or better mobile broadband wireless services in unserved areas. However, the auction process should not be a precedent for determining universal service support for fixed broadband service in rural high cost areas. The Commission should proceed with determining a proper universal service support mechanism for rural broadband providers with critical provider of last resort responsibilities. Support for fixed broadband service providers in rural, high-cost areas must be based on the actual costs of providing the service, and the support must be specific, predictable, and sufficient to provision and maintain the facilities.

Respectfully submitted,

Cammie Hughes
Authorized Representative
Texas Statewide Telephone Cooperative, Inc.
December 16, 2010

Attachment 1

TEXAS STATEWIDE TELEPHONE COOPERATIVE, INC.

Alenco Communications, Inc.
Big Bend Telephone Company, Inc.
Brazoria Telephone Company
Brazos Telecommunications, Inc.
Brazos Telephone Cooperative, Inc.
Cameron Telephone Company
Cap Rock Telephone Cooperative, Inc.
Central Texas Telephone Cooperative, Inc.
Coleman County Telephone Cooperative, Inc.
Colorado Valley Telephone Cooperative, Inc.
Community Telephone Company, Inc.
Cumby Telephone Cooperative, Inc.
Dell Telephone Cooperative, Inc.
E.N.M.R. Telephone Cooperative, Inc.
Eastex Telephone Cooperative, Inc.
Electra Telephone Company
Etex Telephone Cooperative, Inc.
Five Area Telephone Cooperative, Inc.
Ganado Telephone Company, Inc.
Hill Country Telephone Cooperative, Inc.
Industry Telephone Company, Inc.
La Ward Telephone Exchange, Inc.
Lake Livingston Telephone Company
Lipan Telephone Company, Inc.
Livingston Telephone Company
Mid-Plains Rural Telephone Cooperative, Inc.
Nortex Communications, Inc.
Panhandle Telephone Cooperative, Inc.
Peoples Telephone Cooperative, Inc.
Poka Lambro Telephone Cooperative, Inc.
Riviera Telephone Company, Inc.
Santa Rosa Telephone Cooperative, Inc.
South Plains Telephone Cooperative, Inc.
Tatum Telephone Company
Taylor Telephone Cooperative, Inc.
Wes-Tex Telephone Cooperative, Inc.
West Plains Telecommunications, Inc.
West Texas Rural Telephone Cooperative, Inc.
XIT Rural Telephone Cooperative, Inc.