



February 4, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: WC Docket No. 05-337, CC Docket No. 96-45, Interim Cap on High-Cost Funding for Wireless Carriers EX PARTE COMMUNICATION

Dear Ms. Dortch:

On December 14, 2010, the Rural Cellular Association (“RCA”) issued a press release entitled “Consumers Continue to Face Increased Financial Burden as FCC Again Increases Universal Service Contribution Factor.”¹ In that press release, RCA President & CEO Steven K. Berry was quoted as stating, “In August 2008, the FCC ordered an ‘interim’ cap on the total support that CETCs can receive based on the notion that wireless carriers were solely responsible for the growth in USF. Clearly, wireless is not the problem; despite the cap on wireless support, the contribution factor has not only increased, but it is at its highest ever.”²

The National Association of State Utility Consumer Advocates (“NASUCA”) must respond that RCA’s complaints about the USF contribution factor conveniently overlook the fact that if the Federal Communications Commission (“FCC” or “Commission”) had **not** capped wireless support, the contribution factor would be even higher than it actually is this quarter: Rather than the current 15.5% – which indeed is the “highest ever” contribution factor – it would have been 17.5%!³ So the cap on wireless support has

¹ See (“RCA Press Release”). Although RCA filed five ex parte notices during December 2010, none of them expressly addressed the increase in the universal service fund (“USF”) contribution factor.

² Id.

³ Calculation by Billy Jack Gregg of Universal Consulting, Hurricane, West Virginia. Mr. Gregg is the former Director of the Consumer Advocate Division of the West Virginia Public Service Commission. In that position, he served on the Federal-State Joint Board on Universal Service as the representative of the National Association of State Utility Consumer Advocates.

clearly eased the burden on consumers that would otherwise have been borne.⁴

It appears that the current high level of the USF contribution factor for this quarter is caused by the combination of one “supply side” and one “demand side” factors. On the supply side, i.e., revenues in the contribution base, those are at their lowest level in years. On the demand side, the fund need is at its highest level in history, but this appears to be largely caused by high levels of out-of-period adjustments.⁵ Such adjustments are not the appropriate basis for policy decisions about the USF. However, NASUCA welcomes discussion of the underlying causes that contribute to longer-term increases in the USF contribution factor and discussion of program changes that will mitigate such increases.

While NASUCA, its members, and the consumers they represent are no happier than RCA at the current high contribution factor, we believe that the Commission should base its decisions on the facts, not on the interests of particular industry sectors. NASUCA has, on many occasions, proposed means by which the fund demand can be made more effective and efficient, as well as ways to increase the revenue base on which fund demand is imposed.⁶

NASUCA appreciates this opportunity to bring these facts to the Commission’s attention.

Respectfully submitted,

/s/ David C. Bergmann

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CC: Sharon Gillett, Trent Harkrader, Amy Bender, Vickie Robinson

⁴ This is particularly important in light of the three-and-a-half-year-old study in the record of this proceeding, never refuted by RCA or any wireless carrier, that there is no correlation between wireless deployment in rural areas and the receipt of high-cost support by the wireless carriers. See Letter from Jeffrey A. Eisenach, Chairman, Criterion Economics, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45, WC Docket No. 05-337, Attach. The Effects of Providing Universal Service Subsidies to Wireless Carriers (June 13, 2007).

⁵ Communication from Mr. Gregg.

⁶ See, e.g., Docket Nos. 10-90, 09-51 and 05-337, NASUCA Comments on Notice of Proposed Rulemaking (July 12, 2010).