Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates For Local Exchange Carriers	))	WC Docket No. 07-135
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	))	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

Comments of
Communications Workers of America

Debbie Goldman
501 Third St. N.W.
Washington, D.C. 20001
(202) 434-1194 (phone)
(202) 434-1201 (fax)
dgoldman@cwa-union.org

April 18, 2011

EXECUTIVE SUMMARY

It is long past time for the Commission to update the Universal Service high-cost fund and intercarrier compensation system of support for a broadband world. High-speed broadband is the infrastructure of the 21st century, enabling economic growth, job creation, and improvements in education, health care, public safety, and civic engagement. Yet, disturbing broadband gaps persist. As many as 24 million Americans do not have access to broadband networks; there is a persistent rural/rural digital divide; 100 million Americans – many of whom are low-income, people with disabilities, elderly, or rural residents --do not subscribe to broadband because it is not available, too expensive, or they do not have the skills necessary to use the technology; U.S. broadband networks rank 25th in the world in speed; and our schools, libraries, and other community anchor institutions lack the broadband capacity they need to fulfill their missions.

This proceeding, in concert with the related Lifeline/Link-Up rulemaking, offers the Commission the opportunity close many of these high-speed broadband gaps by updating the universal service system of supports designed for 20th century voice telephony to address the challenges presented by the 21st century broadband environment.

In general, CWA supports the Commission proposal to create a unified Create America Fund and urges the Commission to move forward expeditiously to turn this vision into a reality. Further, CWA is reassured that the Commission understands the importance of an appropriate transitional glide path to protect consumers in high-cost areas where market forces alone are insufficient to deliver quality, affordable voice and advanced services. Many carriers receive substantial revenues from the intercarrier compensation regime. Therefore, the Commission must be diligent in devising a transition mechanism to ensure adequate revenue recovery as it ramps down the system of implicit ICC support and replaces it with explicit subsidies from the new Connect America Fund.

CWA supports Commission proposals for near-term reform of the USF High-Cost Fund to reduce waste and inefficiency, improve investment incentives, avoid duplication, and set rate-of-return companies on the path to incentive regulation while moving expeditiously on a path to implement a comprehensive, broadband-focused Connect America Fund. In this area, Commission priorities should include rule changes to require all current USF recipients to provide broadband; support only one carrier in a geographic area and eliminate the identical support rule; and rationalize support for rate-of-return carriers. To help close the rural-rural divide, concentrated in areas served by price-cap carriers as a result of past Commission policies, the Commission should preserve IAS support, with support targeted to broadband expansion.

These near-term reforms could generate up to several billion dollars that can be re-allocated to expand broadband deployment and adoption. The Commission should use $500 million in savings to expand the E-Rate program of support to schools, libraries, and rural health facilities. The Commission should allocate an additional $50 million for Lifeline/Link-Up pilot projects of vigorous research to determine the appropriate mix of cash subsidies and digital literacy training needed to boost broadband adoption among low-income households.

The Commission should move forward expeditiously to implement a unified, broadband-focused Connect America Fund that would target support on a granular (wire center or sub-wire center) basis to areas for which market forces alone do not deliver quality, affordable voice and broadband services. The targeting and distribution methodology should give the current carrier-of-last resort right of first refusal, followed by competitive bidding. This methodology provides the best means to protect consumers from stranded investment and market exit by a new entrant, while making most efficient use of existing network resources. Competitive bidding criteria should include cost per line served, service quality, and amount of network investment. The future CAF should be sized in the $4.3 to 12 billion range; the lower limit is the current size of the USF high-cost fund and the upper limit adds the $8 billion of support estimated in the intercarrier compensation regime.

The Commission should also make explicit the public interest obligations that every USF or future CAF recipient must meet. These include the following requirements:

- Offer broadband services that meet or exceed minimum metrics, initially set at 4 Mbps downstream/1 Mbps upstream, with higher speed benchmarks over time.
- Maintain carrier of last resort obligations for voice and broadband.
- Continue to provide operator services and directory assistance.
- Meet high standards of service quality.
- Connect all schools, libraries, and other community anchor institutions.
- Receive support based on a formula that sets limits on reimbursable corporate and operating costs and shareholder dividends, while recognizing prevailing labor costs.
- Preserve the current so-called "parent trap" rule to protect against market-distorting acquisitions designed to capture public subsidies.
- Establish deployment benchmarks, penalties for non-compliance, and require reporting and annual certification.
- Require stringent compliance with all labor laws and respect for workers' rights

With this framework for reform, the Commission will set our nation back on the path toward global leadership in high-speed broadband and make steady progress in closing the troubling gaps in high-speed broadband deployment, adoption, and capacity to ensure that every American household, community, and business has access to quality, affordable Internet services. Our democracy and our nation's historic commitment to economic opportunity and equality require no less.

TABLE OF CONTENTS

Executive Summary

I. INTRODUCTION ……………………………………………………………..….. 1

II. UNIVERSAL SERVICE FUND REFORM ………………………………..……. 5

A. Near-Term Reform Proposals …………………………………………..… 5
1. Require all Current USF Recipients to Provide Broadband …………... 5
2. Support only One Carrier in a Geographic Area ………..…………… 6
3. Rationalize Support for Rate-of-Return Carriers ……….………… 7
4. Require IAS Support for Broadband ……………..……..………… 8
5. Interim Connect America Fund ………………………….………. 9

B. Establish the Connect America Fund ……………………………… 11

III. PUBLIC INTEREST OBLIGATIONS OF FUND RECIPIENTS ……….…… 13

A. Offer Broadband Service that Meets or Exceeds Minimum Metrics …. 14
B. Maintain Carrier of Last Resort Obligations for Voice and Broadband ... 14
C. Continue to Require Voice Carriers to Provider Operator Services and Directory Assistance ………………………………………………..…. 15
D. Require Carriers to Meet Service Quality Standards ………………….. 15
E. Set Broadband Speeds and Capacity ……………………………………. 16
F. Require Recipients to Connect Anchor Institutions ……………………. 17
G. Impose Limits on Reimbursable Costs ………………………………….. 18
H. Preserve the So-Called "Parent Trap" Rule ……………………………. 19
I. Establish Deployment Benchmarks and Require Reporting and Annual Certification Regarding Compliance ……………………………………. 20
J. Require Compliance with Employment and Labor Laws, Including Respect for Workers' Rights to Collective Bargaining ………………... 20

IV. INTERCARRIER COMPENSATION REFORM ………………………………. 20

V. CONCLUSION ...……………………………………………………………….. 21

I. INTRODUCTION

The Communications Workers of America ("CWA") submits these comments in response to the Commission's *USF/ICC Transformation NPRM*.[1] CWA is a labor organization representing 700,000 workers in communications, media, airlines, manufacturing, and public service who have an interest in this proceeding as workers and consumers.

For more than four years, CWA's Speed Matters campaign has urged the Commission to transform the Universal Service Fund to support broadband deployment and adoption. CWA strongly supports Commission action to modernize the Universal Service Fund ("USF") and intercarrier compensation system ("ICC") to ensure that every American household, business, and community has access to affordable, quality high-speed broadband, delivered and serviced by highly-skilled union-represented U.S. workers. As the Commission notes, access to high-speed broadband is essential for economic, social, and civic participation in the 21st century. The "distance-conquering benefits of broadband" enable improvements in education, health care, energy conservation, economic development, government services and public safety.[2] People and communities without access to broadband infrastructure are left behind with serious consequences for our nation's commitment to democracy and equality. Just as the USF and intercarrier compensation regime helped bring affordable telephone service to nearly everyone, it is long past time to reform these programs to ensure that everyone has access to high-speed Internet at affordable prices, regardless of income or geographic location.

---

[1] Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates, For Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up*, GN Docket No. 09-51,WC Docket Nos. 03-109, 07-135, 05-337, 10-90, and CC Docket Nos. 01-92, 96-45, Feb. 9, 2011 (rel). ("*USF/ICC Transformation NPRM*").

[2] *USF/ICC Transformation NPRM* at 3.

The Commission is well aware of the many broadband gaps in our nation. As many as 24 million Americans live in communities that are not served by broadband networks.[3] There is a rural/rural digital divide, the result of outdated USF policies that provide rich subsidies to a subset of rural carriers and little or no subsidies to others.[4] While the E-Rate program has helped bring Internet access to almost every school and library in our nation, most of these community anchor institutions cannot afford the high-bandwidth connections necessary to meet demand and realize the full potential of online communications and information.[5] Our nation ranks 25th in the world in broadband speeds and 15th in broadband adoption, and almost half of American Internet connections fall below the FCC's 4 Mbps downstream/1 Mbps upstream broadband standard.[6] More than 100 million Americans – one-third of our population – do not subscribe to broadband due to high cost of access and computers or lack of digital literacy.[7]

---

[3] *Inquiry Concerning the deployment of Advanced 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, Amended by the Broadband Data Improvement Act*, GN Docket Nos. 09-137, 09-51, Report, 25 FCC Rcd 9556 (2010) ("Sixth Broadband Deployment Report").

[4] "Roughly half of the unserved housing units are located in the territories of the largest price-cap carriers, which include AT&T, Verizon, and Qwest, while about 15% are located in the territories of mid-sized price-cap companies such as CenturyLink, Windstream and Frontier. While current funding supports phone service to lines served by price-cap carriers, the amounts do not provide an incentive for the costly upgrades that may be required to deliver broadband to these customers. FCC, *Connecting America: The National Broadband Plan*, March 2010 at 141.

[5] A full 80 percent of respondents to the FCC survey of E-rate funded schools and libraries report that broadband connections do not fully meet their current needs. Almost half (45%) of E-rate recipients connect at speeds of 3 Mbps or less. Schools (63%), libraries (65%), and school districts (39%) report average Internet connections speeds under 10 Mbps. *See* FCC, *2010 E-Rate Program and Broadband Usage Survey: Report,"* (DA 10-241). The FCC survey was conducted by Harris Interactive, Inc. from Feb. 25 to April 5, 2010.

[6] Communications Workers of America, A Report on Internet Speeds in All 50 States, 2010. Available at http://www.speedmatters.org/content/internet-speed-report.

[7] Pew Internet and American Life, *Home Broadband Adoption 2010*, Aug. 11, 2010. Available at http://www.pewinternet.org/Reports/2010/Home-Broadband-2010.aspx. *See also* NTIA, *Digital Nation: Expanding Internet Usage*, Feb. 2011. Available at http://www.ntia.doc.gov/reports/2011/NTIA_Internet_Use_Report_February_2011.pdf

This proceeding – in concert with the related Lifeline/Link-Up rulemaking – offers the Commission the opportunity to update its universal service system of supports that were designed for 20th century voice telephony to the challenges presented by the 21st century broadband environment. CWA wholeheartedly concurs with the reform priorities the Commission articulates in the NPRM: advancing broadband service to all Americans; sustaining high-quality reliable voice service for all Americans; increasing adoption of advanced communications services; and minimizing burden on consumers and businesses.[8] CWA would add an additional priority: the provision of communications services provided by highly-skilled, career employees to provide quality service and who have a voice on the job through collective bargaining.

The Commission has proposed a two-step process of reform that aims to make near-term changes in the USF high-cost fund and the intercarrier compensation regime while moving toward a new, broadband-focused, unified Connect America Fund (CAF). In Phase I of the reform process (what the Commission calls "near-term reform"), the Commission proposes specific changes in the current $4.3 billion USF High-Cost Fund that could generate up to several billion dollars for broadband expansion. Among other changes, during Phase I, all USF recipients would be required to provide broadband services and meet specific quality, speed, reporting, and other public interest obligations. During Phase I, the Commission would implement a glide path to reform the intercarrier compensation system, including recovery mechanisms. The Commission proposes to reallocate the savings recovered from these reforms to create an interim Connect America Fund (CAF). The interim CAF would distribute grants to carriers to build

---

[8] *USF/ICC Transformation NPRM* at 16.

broadband in unserved areas, based on a reverse auction process, giving priority to those geographic areas with the lowest cost of broadband deployment. In Phase II (what the Commission calls "future-state"), the Commission would replace implicit ICC subsidies and any remaining high-cost USF subsidies with a unified Connect America Fund, targeting subsidies to areas of the country in which market mechanisms alone do not support quality, affordable voice and broadband services.

In general, CWA supports this reform framework. CWA supports the proposal to create a unified Create America Fund and urges the Commission to move forward expeditiously to turn this vision into a reality. Further, CWA is reassured that the Commission understands the importance of an appropriate transitional glide path to protect consumers in high-cost areas where market forces alone are insufficient to deliver quality, affordable voice and advanced services. Many carriers receive substantial revenues from the intercarrier compensation regime. Therefore, the Commission must be diligent in devising a transition mechanism to ensure adequate revenue recovery as it ramps down the system of implicit ICC support and replaces it with explicit subsidies from the new Connect America Fund.

CWA does have concerns about the Commission proposal to establish an interim Phase I Connect America Fund based on reverse auctions. While CWA wholeheartedly supports reallocation of USF and ICC savings to support broadband build-out in unserved areas (and to support upgrading capacity to anchor institutions as well as increased funding for low-income broadband adoption programs), CWA believes that using reverse auctions to spur broadband deployment during the interim period would only serve to delay the transition to a unified Connect America Fund. Rather, the Commission should move forward expeditiously to establish the permanent Connect America Fund, based on a targeting and distribution methodology that gives current carrier-of-last resort right of first refusal, followed by competitive bidding. This methodology provides the best means to protect consumers from stranded investment and market exit by a new entrant while making most efficient use of existing network resources.

II. UNIVERSAL SERVICE FUND REFORM

CWA supports Commission proposals for near-term reform of the USF High-Cost Fund to reduce waste and inefficiency, improve investment incentives, avoid duplication, and set rate-of-return companies on the path to incentive regulation while moving expeditiously on a path to implement a comprehensive, broadband-focused Connect America Fund.

A. Near-Term Reform Proposals

CWA supports Commission policies to require all USF recipients to provide broadband; transition to a one-carrier per service area support system; rationalize support for rate-of-return carriers; require price cap carriers to target their High-Cost IAS support for broadband deployment; and move expeditiously to reallocate savings to establish a broadband-focused Connect America Fund.

1. Require all Current USF Recipients to Provide Broadband. It is long past time for the Commission to designate broadband as a USF supported service, as recommended last year by the Joint Board.[9] Section 254(b)(3) of the Communications Act instructs the Commission and the Joint Board to ensure that "consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, shall have access to telecommunications and information services, including advanced telecommunications and

[9] *Joint Board 2010 Recommended Decision*, 25 FCC Rcd at 15625, para. 75.

information services, that are reasonably comparable to those services provided in urban areas.[10] Moreover, broadband meets all of the Commission's criteria for a USF supported service. Internet access is essential to education, public health, and public safety; subscribed to by a substantial majority of residential customers (68 percent); being deployed in public telecommunications networks by telecommunications carriers; 4) and absolutely consistent with the public interest, convenience, and necessity.[11]

2. Support Only One Carrier in a Geographic Area. Competitive eligible telecommunications carriers (ETCs), which are primarily wireless companies, received $1.2 billion in High-Cost Fund support in 2010.[12] This represents 28 percent of total high-cost funding. According to the Commission's own analysis, "a significant amount of high-cost support is provided…to competitive ETCs providing duplicative services" and many of these competitive carriers received high-cost support in areas served by carriers that did not receive USF support.[13] Further, the Commission's "identical support rule" provides competitive carriers the same per-line support as the incumbent telephone company in the area, even though wireline costs in many instances far exceed the cost of wireless networks. These policies make no sense.

USF subsidies should ensure that all Americans have access to quality, affordable voice and broadband services, not that *some* Americans have access to a *choice* of telecommunications carriers, paid for by other telecommunications consumers. In areas in which there is no business

---

[10] 47 U.S.C. Sec. 254(b)(3).
[11] NTIA, *Digital Nation: Expanding Internet Usage,* Feb. 2011. Available at http://www.ntia.doc.gov/reports/2011/NTIA_Internet_Use_Report_February_2011.pdf

[12] *USF/ICC NPRM* at 20, Figure 2.

[13] *Id.* at 246.

case for even one carrier to provide quality, affordable service, it makes no sense to divide the customer and revenue base among multiple providers, further widening the gap between the cost of service and revenue received from customers. Providing subsidies to multiple providers in an area simply raises the cost of universal service support contributions imposed on all other consumers. For these reasons, CWA strongly supports the Commission's proposal to transition competitive ETC support to the Connect America Fund by reducing the interim cap on competitive ETCs to zero and eliminating the identical support rule.[14]

3. Rationalize Support for Rate-of-Return Carriers. Today, small rate-of-return carriers receive almost half ($2 billion) of the $4.3 billion High-Cost Fund to serve approximately 5.8 million lines. In 2010, this amounted to an average of $29 in support per line per month. In contrast, price cap carriers received approximately $1 billion for 111 million eligible lines, or $0.78 per month.[15] Moreover, support for rate-of-return carriers has grown 12.6 percent over the past five years (2006 – 2010), compared to a 24.5 percent decline in support to price cap carriers over the same period.[16]

The current High-Cost system that targets support to a small fraction of rural lines has contributed to the development of a rural-rural digital divide. Rate-of-return rural carriers have used their USF revenues to invest in broadband networks. According to the National Telecommunications Cooperative Association (NCTA), 75 percent of their rural member carriers

---

[14] *Id.* at 247 and 250.

[15] *Id.* at 165 and fn. 260.

[16] *Id.* Figure 7 at 166.

reported offering Internet access service at speeds of 1.5 to 3.0 Mbps.[17] Yet, according to the National Broadband Plan, "[R]oughly half of the unserved housing units are located in the territories of the largest price-cap carriers, which include AT&T, Verizon, and Qwest [now CenturyLink], while about 15% are located in the territories of mid-sized price-cap companies such as CenturyLink, Windstream and Frontier. While current funding supports phone service to lines served by price-cap carriers, the amounts do not provide an incentive for the costly upgrades that may be required to deliver broadband to these customers.[18]

The Commission should move forward expeditiously to adopt and implement its proposals to reduce reimbursement for the high-cost loop program, phase out local switching support, set reasonable guidelines for reimbursements for capital and operating expenses based on benchmarks developed from investment made by all comparable companies, and limit the total support per line that any one carrier in the continental United States can receive at the proposed $250 per month ($3,000 per year) per line limit.[19]

4. Require IAS Support for Broadband. As already noted, although price-cap carriers serve 111 million eligible lines, they receive only a small portion of USF high-cost support. This is the result of Commission USF high-cost policies that provides a higher per-line subsidy to rate-of-return carriers and little or no subsidies to other carriers who also serve similar high cost rural areas. When costs to serve a customer are the same or similar, it does not make sense to treat those costs differently because of the kind of company that is the carrier of last resort (i.e.

---

[17] *USF/ICC NPRM* at 170, citing NTCA 2010 Broadband/Internet Availability Survey Report, Jan. 2011.

[18] FCC, *Connecting America: The National Broadband Plan*, March 2010 at 141.

[19] *USF/ICC NPRM* at 21 (summary), 157- 193 and 208-215.

price cap or rate of return). Such a policy punishes some rural high cost customers because of the type of company that is their carrier of last resort.

As a result of these policies, the largest number of unserved broadband customers live in areas in which a price-cap carrier is the incumbent provider. Price-cap carriers' predominant source of high-cost support is the Interstate Access Support (IAS) mechanism. The IAS is capped at $545 million, of which $458 million went to incumbent wireline carriers in 2010. (The remaining $88 million went to competitive ETCs located in eligible price cap carriers' geographic service areas.)[20] As the Commission notes, the IAS "was expressly designed to keep regulated voice rates affordable."[21]

The Commission has proposed transitioning incumbent carriers' IAS support to the Connect America Fund. The Commission should do so on a slow glide path, recognizing that a precipitous drop in IAS revenue would have the perverse and unintended consequence of depriving price cap rural carriers with the cash flow they need to invest in broadband in unserved areas, or in the alternative, deliver rate shock to rural consumers. Therefore, CWA recommends that the Commission develop a plan to maintain current levels of IAS support to price cap carriers until such time as the CAF is fully implemented, with IAS funding used specifically for broadband expansion in unserved areas. However, IAS support to competitive ETCs should be eliminated, consistent with the Commission's proposal regarding competitive ETC support.

5. Interim Connect America Fund. These near-term reforms in the High-Cost Fund should make several billion dollars available for investment in broadband networks and adoption

---

[20] *Id.* at 20, Figure 2.

[21] *Id.* at 229.

programs. The Commission proposes to use these funds to establish an interim Connect America fund (CAF) which would provide grants to carriers to build broadband in unserved areas, selected through a reverse auction process, with priority to those carriers that can deliver broadband to the most customers at the lowest cost. While CWA enthusiastically supports reprogramming USF savings to support broadband deployment and adoption, we are concerned that the reverse auction proposal would set the Commission down the wrong path in the transition to a permanent, unified broadband-focused Connect America Fund. As we discuss below, the best approach for targeting and distributing CAF funding would be a two-step process, giving right-of-first refusal priority to current carriers-of-last resort, followed by competitive bidding where necessary. Setting up an interim reverse auction process could delay and divert resources from establishing a more permanent CAF. Therefore, should the Commission move forward with an Interim Connect America Fund, it should devise a targeting and distribution mechanism that would give right-of-first refusal to current carriers-of-last resort. Moreover, should the Commission establish an Interim Connect America Fund, it should require compliance with all the public interest obligations discussed in Section III below. Further, should the Commission move forward with a competitive bidding process for an Interim Connect America Fund, selection criteria should include not only per-line cost, but also quality, amount of network investment, and the financial, technical, and operating capability of bidding carriers to provide quality voice and broadband services and to meet carrier-of-last resort obligations.

In addition, the Commission should re-allocate $500 million in USF savings to expand the E-Rate program of subsidies to schools and libraries, and $50 million to support broadband adoption pilots that provide a rigorous research basis for reform of the existing Lifeline/Link-Up program that supports broadband adoption among low-income consumers. A portion of the USF savings would also be available for a transitional Access Recovery Mechanism to ensure that cash flow reductions from ICC reform do not lead to service cuts, unreasonable rate hikes, and delayed broadband investment in rural areas. The Commission should reallocate a portion of the USF savings for additional transitional support to so-called "nonrural" price cap carriers to resolve the issues raised by past legal challenges to the "nonrural" rules. In this way, the Commission would recognize the potential inadequate support and provide additional support to those price cap carriers as we transition away from the old mechanism to a new one.[22]

B. Establish the Connect America Fund

The Commission should move forward to transition both USF high-cost and ICC support to a unified, broadband-focused Connect America Fund (CAF). The CAF should provide support to narrowly targeted areas (wire centers or even sub-wire centers) in which market forces alone would not deliver quality, affordable voice and broadband services. The CAF should support only one provider in a geographic area. As noted earlier, the purpose of USF support is to ensure that all Americans have access to affordable, quality telecommunications services, *not* to ensure competition in high-cost areas. In areas of low population density, it makes no sense to divide a small revenue base among multiple carriers, thereby increasing the required per-line cost of the CAF subsidy. The CAF should provide support in all areas of the country where market forces

[22] *See* In the Matter of High-Cost Universal Service Support Federal-State Joint Board on Universal Service Joint Petition of the Wyoming Public Service Commission and the Wyoming Office of Consumer Advocate for Supplemental Federal Universal Service Funds for Customers of Wyoming's Non-Rural Incumbent Local Exchange Carrier, WC Docket Nos. 05-337, 96-45, *Order on Remand and Memorandum Opinion and Order,* April 16, 2010 (rel).

alone do not deliver quality, affordable service. The minimum size of the CAF should be set at the current $4.3 billion USF High-Cost plus the value of ICC contributions, which the Commission estimates at $8 billion for a total of $12.3 billion, adjusted annually for inflation.

Target and Distribute Funds based on Right- of-First Refusal Everywhere, Followed by Competitive Bidding. The Commission has proposed two alternative mechanisms to target and distribute CAF funds. One option would set up a competitive bidding process everywhere, while a second option would first allow current carriers-of-last resort (typically the incumbent provider) the right of first refusal, followed by competitive bidding where necessary. The Commission's second option (right of first refusal followed by competitive bidding) has distinct advantages. Giving the current carrier-of-last resort the right of first refusal would make most efficient use of limited capital by allowing the existing carrier to leverage its current network plant and equipment, technical and market knowledge, skilled workforce, and customer relations to expand broadband to areas already served by its voice network. It would obviate the very real danger of competitive bidding leading to stranded ratepayer-supported or publicly-subsidized network investment. Further, it would protect consumers by ensuring that the current voice carrier-of-last resort continues to serve customers in low-density areas, thereby minimizing the danger that a new entrant, having won a competitively bid auction, might default on its obligations at the same time that the current incumbent, having lost its subsidy, either exited the area or reduced network investment, leaving customers without quality, affordable voice and broadband service. In instances in which the incumbent provider-of-last resort declines to accept CAF support, the Commission can then implement competitive bidding.

Criteria for any competitive bidding or reverse auction should include not only cost, but also additional criteria including willingness to increase broadband speeds; quality of service, including customer support; technical, financial, and operating capability of bidding carriers; and the ability to maintain carrier-of-last resort obligations. If there are multiple companies tied for providing service at comparable cost, the company willing to guarantee more broadband and better service for that subsidy should win. This will encourage both additional deployment and value workers contribution more than a simple competitive auction. (For example, Singapore conducted their auction for the subsidy necessary to build their next generation network using such criteria).

In determining the level of support, the Commission proposes to build a broadband cost model. It is critical that any model incorporate actual network costs, including labor costs. The model should adopt the prevailing area compensation costs (wages and benefits), based on the collective bargaining rate. Any alternative would lead to the unintended consequence of pushing down communications worker living standards.

The Commission should impose strict deployment timetables on Connect America Fund recipients and should require annual certification of compliance. The Commission should impose financial penalties on non-compliant carriers, which should include the option to terminate participation in the CAF with repayment of USF subsidies. We discuss further public interest obligations below.

III. PUBLIC INTEREST OBLIGATIONS OF FUND RECIPIENTS

The Commission is absolutely right that "[p]roviders that benefit from public investment in their networks should be subject to clearly defined obligations associated with the use of such funding."[23] The Commission should require all recipients of USF and future Connect America Fund recipients to meet, at a minimum, the following public interest obligations:

A. Offer Broadband Service that Meets or Exceeds Minimum Metrics. As noted in Section II.A, all USF and future CAF recipients should be required to provide broadband service that meet or exceed minimum benchmarks.

B. Maintain Carrier-of-Last Resort Obligations for Voice and Broadband. Voice telephony and broadband service are essential to public health, safety, and welfare. If someone gets hurt, has a fire in her home, is a victim of an attack, applies for a job, or runs a home-based business – to cite just a few examples – she needs access to voice and increasingly broadband services. For this reason, Congress as well as this Commission and state regulators have mandated universal service policies in concert with state mandates on incumbent local exchange carriers to meet carrier-of-last resort obligations. Such obligations protect consumers by ensuring that there is at least one communications carrier in their area. ***The transformation of the USF system of support must not reduce this critical consumer protection.*** Rather, the Commission should require all recipients of USF or CAF funding to meet carrier-of-last resort obligations, and to retain this obligation for a minimum of 10 years. This obligation includes the duty to serve all customers in the service area within a reasonable, to extend lines upon request at just and reasonable charges, and to provide all supported services until granted permission to exit the market.[24] A USF or future CAF recipient that chooses not to re-bid for CAF support must

[23] *USF/ICC NPRM* at 90.

[24] *USF/ICC NPRM* at 91. *See also* MARUC States Comments recommending a broadband, voice, and wireless provider-of-last resort obligation cited in *USF/ICC NPRM* fn 158.

maintain their carrier-of-last resort obligation until such time as another carrier assumes the obligation.

C. Continue to Require Voice Carriers to Provide Operator Services and Directory Assistance. The Commission should continue to require recipients of USF or CAF support to provide operator services and directory assistance to customers. These services remain essential to public health, safety, and welfare. CWA-represented operators can attest to the thousands of people who dial "O" rather than "911" in the midst of an emergency, and receive life-saving help as a result of operator intervention. As noted earlier, one-third of Americans do not have broadband at home, and these customers, along with people with disabilities, elderly residents, and others, rely on operator services and directory assistance to access phone numbers and assist with phone and online communications. Many state Commissions have now granted incumbent carriers permission to stop delivering phone books to customers; this makes availability of operator services and directory assistance even more important.

D. Require Carriers to Meet Service Quality Standards. Section 254(b)(1) of the Communications Act is absolutely clear: "*Quality services* shall be available at just, reasonable, and affordable rates" (emphasis added). The Commission must ensure that USF and future CAF recipients meet the statutory mandate to provide quality voice and (after the Commission adds it to the list of supported services) broadband services to customers. Quality service is a function of four factors: adequate network investment; sufficient staffing; adequate training; and appropriate company customer service policies that allow employees to provide the quality service that to which customers are entitled. In order to determine whether USF and future CAF recipients are providing quality service, the Commission should develop service standards that measure installation and repair intervals, trouble reports, network outages, time to answer customer calls, time to resolution of customer complaints and billing inquiries, number and type of customer complaints, among other metrics. All of these measures – not just customer complaints – are important to track quality service. At a minimum, the Commission must collect service quality data as part of its comprehensive data reporting program to measure carrier performance on these and other metrics.[25] In addition, the Commission should require USF and future CAF recipients (and for that matter, all carriers) to report employment data, including the number of frontline technicians and customer service personnel, as an important measure to track service quality.

E. Set Broadband Speeds and Capacity. The Commission should set minimum standards for *actual* broadband speed and capacity that all USF and future CAF recipients must meet. These minimum standards should be adjusted periodically, as online applications demand more bandwidth. Thus, it is important for the Commission to set initial standards and obligations

[25] The Commission recommended requiring all carriers to provide service quality data in its 2008 *Service Quality Data NPRM*, but has not yet issued an Order in that proceeding. In the meantime, the Commission's service quality ARMIS reporting requirements ceased in 2010 as a result of the *Service Quality Data Order.* In its current *Form 477 Data Reporting* proceeding, CWA has urged the Commission to move forward expeditiously to update and reinstate service quality reporting data from all industry participants. *See Memorandum Opinion and Order and Notice of Proposed Rulemaking,* In the Matter of Petition of Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Qwest Corporation for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Embarq Local Operating Companies for Forbearance Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of for Forbearance Frontier and Citizens ILECs Under 47 U.S.C. § 160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, Petition of Verizon for Forbearance Under 47 U.S.C. §160 (c) From Enforcement of Certain of the Commission's ARMIS Reporting Requirements, , WC Dockets Nos. 08-190, 07-139, 07-204, 07-273; Sept. 6, 2008 (rel) ("Service Quality Data Order"); CWA Comments, In the Matter of Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering and Review of Wireline Competition Bureau Data Practices, WC Dockets Nos. 11-10, 07-38, 08-190, 10-132; Feb. 8, 2010, ("Data Improvement NPRM").

that incent investment in networks that carriers can upgrade for higher speeds and capacity in order to ensure that customers in rural areas have access to telecommunications and information services "that are reasonably comparable to those services provided in urban areas."[26] The National Broadband Plan recommends that the Commission initially require recipients to provide *actual* broadband speeds at a minimum of 4 Mbps downstream/1 Mbps upstream, which is sufficient capacity to provide for online video viewing.[27] In addition, the Commission should require USF and future CAF recipients to provide access to broadband networks that can deliver a minimum usage capacity, set initially in the 20 to 25 gigabyte range.

F. Require Recipients to Connect Anchor Institutions. The National Broadband Plan established the goal of serving community anchor institutions with one gigabyte capacity. Yet, according to the Commission's own data, a full 80 percent of E-rate funded schools and libraries report that broadband connections do not fully meet their current needs. Almost half (45%) of E-rate recipients connect at speeds of 3 Mbps or less. Schools (63%), libraries (65%), and school districts (39%) report average Internet connections speeds under 10 Mbps.[28] Building high-speed connections to community anchor institutions provides a gateway into residential neighborhoods, creating synergies and efficiencies in network deployment, as well as providing benefits to students and community residents. Therefore, the Commission should require all USF and future CAF recipients to serve all requesting schools, libraries, and rural health centers with high-speed

---

[26] 47 U.S.C., Section 254(b)(3).

[27] *USF/ICC NPRM* at 109, citing National Broadband Plan at 135.

[28] FCC, *2010 E-Rate Program and Broadband Usage Survey: Report,"* (DA 10-241). The FCC survey was conducted by Harris Interactive, Inc. from Feb. 25 to April 5, 2010.

broadband connections.

G. Impose Limits on Reimbursable Costs. The Commission must ensure that USF and CAF recipients use public funds to provide the public with quality, affordable voice and broadband services, not to pay exorbitant salaries to corporate executives and/or excessive dividends to shareholders. Currently, some USF recipients pay extremely high dividends to shareholders at rates that far exceed the industry norm (The data in Table 1 below is illustrative although by no means comprehensive). To protect the public against waste and abuse, the Commission should require USF and future CAF recipients to limit their dividend pay-out ratio (dividend divided by net income) to 75 percent.

Table 1. Dividend Pay-Out Ratios of Selected Large and Mid-Size Carriers (Dividend/Net Income)

Company	2010	2009	2008
Windstream	150%	131%	108%
Frontier	351%	260%	174%
CenturyLink	93%	87%	60%
AT&T	50%	80%	74%
Verizon *	212%	108%	78%

* Verizon net income in 2010 includes only companies in which it has a controlling interest

Source: finance.yahoo.com, SEC Form 10-Ks

The Commission correctly proposes to adopt reasonable limits on corporate overhead operations and set benchmarks for reimbursable operating and capital costs. In setting the benchmarks, the Commission should use actual prevailing wage data for labor inputs, using collectively bargained labor rates as the default labor rate. Any other method for establishing labor rates could result in the unintended consequence of insufficient support for adequate staffing, the result of which would be not only a violation of statutory obligations to ensure "quality service," but also downward pressure on communications workers' living standards.

H. Preserve the So-Called "Parent Trap" Rule. Current Commission rules require that a carrier acquiring exchanges from another provider receive the same per-line levels of high-cost support as those exchanges were eligible to receive prior to the acquisition. The Commission explains that it adopted this Section 54.305(b) rule "to discourage a carrier from placing unreasonable reliance upon potential universal service support in deciding whether to purchase exchanges or merely to increase its share of high-cost universal service support." The Commission adopted the so-called "parent trap" rule after several Bell Operating Company divestitures to smaller companies resulted in an explosion in per-line universal service support for the acquired exchanges.[29]

The Commission should preserve the current rule. The original rationale continues to be relevant. In recent years, Verizon has sold rural exchanges in multiple states, taking advantage of the Reverse Morris Trust (RMT) loophole to save hundreds of millions of dollars in taxes on the proceeds of the sale. The RMT tax exclusion applies only when the purchasing company is smaller than the seller. Thus, Verizon sold its New England lines to FairPoint Communications and its Hawaiian telephone company to the Carlyle Group. Both acquiring companies subsequently went bankrupt, leaving consumers with an incumbent company with fewer resources to invest in quality voice and broadband services. Should the Commission weaken the current so-called parent trap rules, this could result in market-distorting transactions motivated, in part, by the ability to garner USF cash flows. It would also raise per-line USF costs. Such distortions will disappear after the creation of the Connect America Fund which will target funds based on need, rather than the type of size of the carrier. Therefore, CWA urges the Commission

[29] *USF/ICC NPRM* at 225 and fn 347.

to retain the so-called "parent trap" rule during this transition period, anticipating the creation of a unified, targeted CAF.

I. Establish Deployment Benchmarks and Require Reporting and Annual Certification Regarding Compliance. The Commission should adopt stringent benchmarks and related reporting requirements to measure deployment, adoption, pricing, and service quality. The Commission should also require annual reporting of financial condition and operations. Such reporting is essential to improve performance management and strengthen oversight of the high-cost USF and future CAF.[30] The Commission should establish penalties for non-compliance.

J. Require Compliance with Employment and Labor Laws, Including Respect for Workers' Rights to Collective Bargaining. The Commission should monitor USF and future CAF recipients' compliance with labor laws and regulations. The Commission should require any USF or future CAF recipient found in violation of labor laws and regulations to cease such violations immediately, subject to termination and refund of USF or CAF subsidies. While CWA recognizes that other federal and state agencies have jurisdiction over compliance with employment and labor laws, CWA also believes that the Commission does have the authority to rule that any carrier found out of compliance with such laws should not benefit from USF or CAF subsidies.

IV. INTERCARRIER COMPENSATION REFORM

The Commission proposes to reform the intercarrier compensation system which consists of an estimated $8 billion in transfers between carriers to pay each other for the origination, transport and termination of telecommunications traffic. CWA previously filed comments in

[30] *USF/ICC NRPM* at 458-478. On service quality reporting, see Section IVD.

support of expeditious Commission action to reduce arbitrage opportunities that result from the current structure of the intercarrier compensation.[31] As the Commission moves forward on more comprehensive reform, it should move forward on a glide path that is "gradual enough to enable the private sector to plan accordingly."[32] This is important since intercarrier compensation represents 10 to 30 percent of carrier revenue.[33] Thus, it is important for the Commission to develop an access recovery mechanism during the transition to protect customers of carriers that experience significant revenue loss from rate shock, service degradation, or delayed investment in advanced networks.

The Commission has laid out a path that would eventually fold ICC and USF high-cost support into a unified, broadband-focused Connect America Fund that would ensure that all regions of the country have access to quality, affordable voice and broadband services. As access charges go down, the Commission would provide a transitional recovery mechanism, but after a transition period, the Commission would target support to those areas in which market forces alone do not support quality, affordable voice and broadband services.

V. Conclusion

The Commission should move forward with all due haste to transform the current Universal Service High-Cost Fund and the intercarrier compensation system to support quality, affordable high-speed broadband and voice services. High-speed broadband is the critical infrastructure for the 21st century, and our nation must move forward to ensure that every

---

[31] CWA Comments, *USF/ICC Reform – Section XV*, April 1, 2011.

[32] *USF/ICC NRPM* at 533.

[33] *Id.* at 567.

American household, community, and business has access to quality, affordable Internet services.

Our democracy and our nation's historic commitment to economic opportunity require no less.

Respectfully Submitted,

Debbie Goldman
Telecommunications Policy Director and Research Economist
Communications Workers of America

April 18, 2011