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
____	)	

COMMENTS OF THE ALASKA TELEPHONE ASSOCIATION

An association comprised of presently viable rural telecommunications providers, the Alaska Telephone Association ("ATA"),[1] offers these comments fearful that the Federal Communications Commission ("FCC" or "Commission") will move forward to "fundamentally modernize" the Universal Service Fund ("USF") and intercarrier compensation ("ICC") system in the manner proposed in the National Broadband Plan ("NBP").[2]

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[1]The Alaska Telephone Association is a trade association open to incumbent local exchange carriers, competitive local exchange carriers and interexchange carriers serving the state. Its active members are Adak Telephone Utility; Alaska Power & Telephone Company; Arctic Slope Telephone Association Cooperative; Bristol Bay Telephone Cooperative, Inc.; Bush-Tell, Inc.; Copper Valley Telephone Cooperative, Inc.; Cordova Telephone Cooperative; KPU Telecommunications; Matanuska Telephone Association; Nushagak Cooperative, Inc.; OTZ Telephone Cooperative, Inc.; Summit Telephone Company, Inc.; TelAlaska, Inc.; United Utilities, Inc.; and Yukon Telephone Company, Inc.

[2]NPRM ¶1

In previous comments we were not reticent in sharing our abhorrence with the NBP[3] as we envisioned the utter degradation of our rural communications network. We wondered at federal policy where one agency forcefully advocates for the protection of Alaska's wolves, polar bears and beluga whales, while another contrives to devastate the environment necessary to nurture the connectivity lifeline to Alaska's people. In this Notice of Proposed Rulemaking ("NPRM") we again see myriad pitfalls and paths that do not lead to the promised "universal access to broadband." However, we also see some indication that our unique circumstances have been recognized and that the dreaded worst case scenario might not come to pass. It is with this tempered optimism – i.e. hope -- that we offer these thoughts.

Present Social Contract

At the very beginning of this NPRM the Commission declares that universal service, the principle that all Americans should have access to communications services, has been at the core of the Commission's mandate since its inception.[4] The NBP and the Commission have proposed a transition from a ubiquitous voice network to a ubiquitous broadband network and a transition from a Universal Service Fund to a Connect America Fund ("CAF") to support the network.

Since 1934 rural telephone companies have borrowed money to invest in and build out infrastructure to serve customers in their respective study areas as required by regulations set by the FCC and state commissions. These regulations often require that service be provided to customers where the cost of that infrastructure deployment and maintenance thereof may never

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[3] Comments of the Alaska Telephone Association, *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, High-Cost Universal Service Support*; WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337; filed July 12, 2010.

[4] NPRM ¶2

bring a return on investment and, in many instances, the return of investment might be over such a time period that there is no reasonable business case for making the investment.[5] But a certificated rural telephone company with carrier of last resort ("COLR") responsibilities has had a duty to make that investment in order to provide service. And the initial deployment of infrastructure did not end the investment. FCC and state mandated upgrades for E-911, CALEA,[6] call blocking, 2-PIC[7] and others have necessitated repeated investment.

The principles of universal service that have required specific duties (investments) of telecommunications companies providing service to customers in high-cost areas also provide that specific, predictable and *sufficient* support mechanisms be available to these companies. As the Commission transitions from a USF contract to a CAF contract with service providers, regardless of what entity accepts the CAF contract, it must recognize that companies have incurred debt to maintain their part in delivering universal service under terms dictated by regulatory bodies. The Commission's unilateral abrogation of the social contract, at a minimum, leaves it with an ethical duty to insure that recovery of those investments made under the USF contract is provided. As a practical matter, a rural high-cost COLR left with significant stranded debt might be unable to finance an upgrade to a network capable of providing services meeting CAF standards, thus leaving a rural community without a broadband provider or a COLR. Debt incurred as a result of contractual obligations should be satisfied. This recovery of legacy

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[5] Return of investment is recovering the capital invested in plant through depreciation. The length of time required to recover the investment, therefore, is a function of the length of depreciable lives approved by regulatory commissions. In an effort to keep rates low for consumers, many have opted for long lives. Using longer depreciation lives was not a significant issue under the old contract because, eventually, the investment would be recouped. Now, at this time of transition, however, the policy is problematic.

[6] Communications Assistance for Law Enforcement Act.

[7] Primary Interexchange Carrier. "2" indicates a customer may choose different carriers for interstate and intrastate access.

embedded capital investments is basic to an evolving and robust communications system in rural America.

We are assured by the Commission that it is "not proposing to eliminate universal service support for communications in high-cost areas of the country."[8] While a somewhat comforting declaration on its face, it leaves us still unsettled as the end result of insufficient support is the same, in time, as the elimination of support.

Contribution Methodology

In ATA's comments filed on April 1, 2011 in these dockets, we stressed the importance of reforming the contribution methodology to discourage arbitrage by requiring all users of the network to contribute to its costs. Currently phantom traffic and VoIP traffic terminate voice calls on the public switched telephone network ("PSTN") without making any contribution to the investment or operations expenses. A report released by the Wireline Competition Bureau shows that in the year preceding June 30, 2010, VoIP subscriptions increased 21% and switched access minutes declined by 8%.[9] Without Commission action the percentage of traffic getting a "free ride" will proliferate and, as a result, an increasingly disproportionate and unfair portion of the network's costs will fall upon carriers who forthrightly identify their traffic as voice, while their competitors transmit "data" that *sounds* like voice or disguise their billing information.

The Commission seems clear in its intentions to remedy the phantom traffic problem. Its plans for VoIP are not so obvious. In discussing signaling information rules, the Commission states that "they would apply to all voice traffic, including interconnected VoIP," but then goes

[8] NPRM ¶15

[9] http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0321/DOC-305295A1.pdf

on to say that it "does not prejudge the determination of any intercarrier payment obligation."[10] That tends to make us believe that VoIP might be exempted from contributing to network cost recovery. Such policy would be in concert with the Commission's goal of restructuring the recovery mechanism "with the appropriate incentives to accelerate the migration to all IP networks, including IP interconnection."[11] Certainly a discounted (to zero) cost for use of the telecommunications network would create an incentive to use IP technology. That is exactly why the percentage of reported VoIP traffic is increasing so dramatically.

With its stated intentions of fundamentally overhauling USF and ICC, the Commission ought first to gauge its resources; only then can it determine if its vision for universal broadband is realistic. And the assessment might unearth a surprising cache. If the Commission permitted the equitable expansion of the contribution base through the elimination of phantom traffic and the inclusion of VoIP traffic while leaving the contribution factor unchanged, the available funding pool would be considerably greater than it is with no increased burden on today's network supporters.[12] Knowing the resources it has at its disposal prior to considering austerity measures for rural America would surely be in the public interest.

Opportunity for Future Recovery

The NBP and the attendant Commission activities proposing to transition USF policies to CAF policies has chilled the money market for rural telephone companies whose networks depend on receiving high-cost support. Understandably, lenders are concerned that companies

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[10] NPRM ¶37

[11] NPRM ¶559

[12] VoIP providers should recognize it is in their self interest to ensure the continuation of the reliable networks their services currently utilize free of charge.

whose revenue streams have been heavily dependent on access revenues and USF support will be unable to repay current loans as the rules "transition." The various NPRMs have made little clear except that there will be change and that is hardly a basis for enhancing a lending institution's comfort level. We recognize that the Commission has attempted to restrain panic by assuring industry that there will be no "flash cuts" as the reform process proceeds, but we are unsure if the "glide path" will be sufficiently long so that loans can be repaid or if it is only a postponement of insolvency.[13] And if the transition includes a period of diminishing revenues (as seems probable), is there a commensurate reduction in COLR responsibility? Regardless, we have seen no guidance for consideration of future investment.

The independent telephone companies serving rural America must have a clear understanding of expectations and opportunities that exist on the other end of this dark tunnel through which we might, or might not, transit. Our populations are not going to dramatically increase and our distances will be no less. Construction days in Alaska will be no more numerous next year and, in spite of global warming, conditions will not be gentle. We need to understand what the Commission expects us to provide, we need to know the sources of revenues and we need to have the expectation that after we have borrowed and invested to provide the CAF-required services, that high-cost support (because we will still be serving high-cost areas) will not be on the rug that is jerked out from under our feet.

Not long ago we thought we understood the "contract." We believed that a COLR had a duty to offer a specified menu of services throughout its study area and in return it had an opportunity to earn a return on investment. In fact, we believed that a fiscally responsible rural

[13] NPRM ¶12. We note that the same paragraph mentions easing transitions if additional funding were available and we refer the Commission to our comments in the preceding section on Contribution Methodology. See also NPRM ¶17.

telephone company could provide reasonably comparable services at reasonably comparable rates to its customers as they might find in urban communities and that the provision of those services would continue because Congress demanded that there would be specific, predictable and sufficient mechanisms to support universal service. Like the lending institutions, the high-cost rural telephone industry has become apprehensive. We implore the Commission to make future responsibilities and opportunities rational and very clear.

Corporate Operations

The NPRM proposes to eliminate the recovery of corporate operations expenses from the high cost support payments currently received by rural telephone companies. This proposal is based on the assumption that these corporate operations costs are discretionary and therefore not necessary for the provision of supported telephone services. This assumption is in error as the corporate operations costs incurred by rural telephone companies are not discretionary and in fact are a cost burden that has been rising as regulatory reporting requirements and regulatory audits increase.

Part 32 of the Federal Communications Commission rules defines corporate operations expenses to include executive compensation, corporate planning, accounting and finance operations, external relations, human resources, information management, legal, procurement, and other general and administrative expenses. Corporate operations expenses are a necessary component of running a rural telephone company, especially one that operates in an environment of increasing technical and regulatory complexity. In the corporate operations category, executive compensation captures the salary and benefits of the corporate officers that manage the operations of the company. For many very small rural telephone companies, there may only be one or two executives for all executive functions. Corporate planning includes developing and evaluating long-term courses of action for the future operations of the company. Accounting and finance operations include payroll and disbursements, property accounting, capital recovery, regulatory accounting (revenue requirements, separations and settlements, and related cost accounting), tax accounting, internal and external auditing, capital and operating budget analysis and control, general accounting, financial reports, and corporate financial planning and analysis. External relations is used for activities including maintaining relations with government, regulators, other companies, and the general public as well as regulatory reporting such as filings with USAC. Human resources includes activities such as compliance with federal labor laws, job analysis and salary review, labor relations activities, personnel policy development, employee communications, benefit administration, and employee safety programs. Information management activities encompass planning and maintaining application systems and databases for general purpose computers. Legal costs include conducting and coordinating litigation, providing guidance on regulatory and labor matters, and reviewing and filing contracts. Procurement includes obtaining material and supplies, including office supplies. Other general and administrative includes office costs and insurance premiums.

Clearly these functions are not discretionary and are necessary for the operation and regulatory compliance activities of rural telephone companies. There is nothing in the NPRM that would result in a lessening of the accounting and regulatory burdens that small, rural carriers experience and it is essential that rural carriers be allowed to continue recovering these costs through the high cost support mechanisms. Several of Alaska's rural carriers serve small customer bases in locations with limited economies. Attempting to recoup corporate operations costs through higher consumer rates is simply not feasible nor is it consistent with the tenets of universal service.

Exceptional Capital and Operations Costs

Few opportunities for comment from Alaska have not included descriptions of the state's expanse, topography, climatic conditions and dearth of roads. Except for those members of the Commission and its staff who have actually experienced Alaska, such descriptions probably have little impact as there is nothing in the Beltway, the Shenandoah Valley or east of the Mississippi River (except for the Atlantic Ocean) for rational comparison. And most visitors who have availed themselves of the wonderful opportunity to see this land have done so in summer. Winter is different.

Communications services are expensive to deploy and to operate in Alaska. The per capita costs are even more extraordinary, but that should not be surprising in the largest state with one of the smallest populations, the harshest weather conditions and the least infrastructure. Transporting parts and personnel by air to remote places is naturally more costly than transporting the same parts and personnel by road to a less distant location.

We believe the Commission has indicated an appreciation if not an understanding of the magnitude of the exceptional conditions the Alaska communications industry faces. That belief is due to the suggested exception for carriers operating outside the continental United States to the proposed cost-per-loop cap.[14] Although Alaska is in fact "continental," we understand the term is intended to be interpreted as "contiguous."

By itself, exemption from a proposed per line support cap would not assure Alaska companies of the resources to continue infrastructure development or even to maintain operations considering some of the other proposals in this NPRM, however we embrace this as a sign of the Commission's awareness that Alaska is different and, like Hawaii in its insular status,

[14] NPRM ¶211

special consideration is warranted. After evaluating the success in the contiguous states of whatever transition changes are implemented, the Commission would have a better basis for considering how the new policies, or modifications of those policies, would fare in the unique and more fragile communications environment in Alaska.

Middle Mile Support

In as much as some parties have suggested that high middle mile costs present a barrier to the delivery of broadband in some areas, the Commission asks whether it should modify its rules to provide additional support.[15] In previous comments advocating for middle mile support we offered the following remarks. Our position remains unchanged.

> The tremendous cost of middle mile transport to connect to the Internet backbone often prohibits the local provider from offering its customers reasonably priced broadband services. Those high costs are due to factors specific to each locale, but all are aspects of vast distances, extreme terrain and weather, and small populations. The costs are such that in many locations, terrestrial middle mile transport has not been built due to the lack of a viable business case. In some of those locations where facilities have been built the commercially available rates for transport are such that we resort to low speed offerings (128 Kbps for example), and financial deterrents (usage based charges) to limit customers' use of the service. Unfortunately, many of these same communities also experience high unemployment rates; economic adversity that could be partially mitigated by having access to reasonably priced broadband services.
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> A solution might be to establish a Tribal Lands Middle Mile USF Support mechanism (to include Alaska and Native Hawaiian populations). Using a model similar to the existing Rural Health Care USF program, the support would be

[15] NPRM 395

> based on the cost of transport facilities in the rural high cost area as compared to the cost of the same transport facility in the closest urban area. The difference between the two would be the support amount to the rural carrier. The services would be provided by the rural carrier, as a condition of receiving the support, on common carrier basis that would provide other Internet service providers access to the facilities, as well as the last mile facilities on a tariffed basis, similar to the manner that DSL services are provided by NECA pool companies today. The tariffed service would include transport to the Tier 1 carriers' point of presence ("POP") and the equipment necessary to segregate the traffic so that individual Internet service providers could choose their Tier 1 Internet service provider.[16]

<u>Tribal Lands</u>

The special considerations suggested for Tribal Lands, Alaska Native Regions and Hawaiian Home Lands are insightful, necessary and may permit these rural, impoverished and sparsely populated communities to join in the broadband revolution…belatedly. In an enthusiastic overview of the impact of broadband networks on our nation's economic development, and noting the adoption of broadband services by two-thirds of the people in our cities, the Commission states that "the benefits of broadband can be even more important in America's more remote small towns, rural and insular areas, and Tribal Lands."[17] We agree.

Individually and collectively, these categories describe Alaska. In addition, Alaska is a young state with both a short tenure since statehood and a relatively brief history of infrastructure development. With the considerable support of universal service policies, telecommunications services that would not be too disappointing to visitors are exciting

[16] Comments of the Alaska Telephone Association, *In the Matter of Connect America Fund, WC Docket No. 10-90, A National Broadband Plan for Our Future, GN Docket No. 09-51, High-Cost Universal Service Support, Docket No. 05-337*; p. 13, July 12, 2010.

[17] NPRM ¶3

Alaskans as they become available in our communities. Only very recently have some of us realized that our opposable thumbs were designed to be used with handheld wireless devices. But without USF support, the dynamic investment in wireless infrastructure would not be happening. Deployment costs are simply too high (exceptionally high for the reasons related earlier) for the number of potential customers. Still, the Section 254 mandate from Congress to which we cling encourages us that even people in rural, insular and high cost areas…. Yes, Congress actually was thinking of us when it created the 1996 Act and because of universal service policies implemented since then, Alaska is in the formative stages of achieving the comparable services envisioned by the drafters.

The Commission requests comment on a proposal by GCI that carriers serving Tribal Lands and Alaska Native Lands should be exempted from any reduction in competitive ETC support.[18] For the reasons just described, we wholeheartedly agree. A phase down of support would not only prevent future deployment, it would shut down services just recently introduced in many Alaskan communities. Public safety would be jeopardized and the public interest trampled. The Commission also asks if there are unique circumstances on Tribal Lands that would require ongoing support for more than one provider.[19] Again, we think there are. For reasons that probably vary across the nation, Tribal Lands have not enjoyed the same level of service as the rest of America. In Alaska physical challenges have made deployment very costly, but current federal policies have opened the door to that deployment. If that door is shut, even partially, our scramble to catch up with urban America will be crushed. As with Tribal Lands throughout the country, Alaska Native Lands need special consideration and ongoing support to

[18] NPRM 259

[19] NPRM 411

bring all of our people onto the robust broadband communications network envisioned by the Commission.

Conclusion

The ATA appreciates this opportunity to present our positions for consideration. We recognize that the overwhelming cascade of comments the Commission will review in response to this NPRM will not represent our unique viewpoints and most of those submitting comments will have no comprehension of the challenge of providing communications service in Alaska. In part due to questions asked in this NPRM, we believe the Commission has indicated its recognition of our unique circumstances and will give fair attention to our comments.

- Imperative to the continuation of high quality service during and post transition is that legacy embedded capital investment must be recovered.
- All network users must be required to contribute to the cost of providing that network.
- Industry must clearly understand the post transition expectations and opportunities for cost recovery.
- Corporate operations expenses are not discretionary and support for them is crucial.
- Special consideration for Tribal Land, Alaska Native Lands and Hawaiian Home Lands is appropriate.

Respectfully submitted this 18th day of April, 2011.

ALASKA TELEPHONE ASSOCIATION

By: ____________________

Executive Director