

**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 THE IOWA UTILITIES BOARD

On February 9, 2011, the Federal Communications Commission (Commission) released a Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (NPRM) in the above dockets. On April 1, 2011, the Iowa Utilities Board (IUB or Board) filed comments on Section XV of the NPRM addressing arbitrage opportunities. In these comments, the IUB addresses other issues pertaining to the Commission's proposed reforms relating to the system of intercarrier compensation (ICC) as well as proposed reforms to the federal Universal Service Fund (USF). Specifically, the IUB provides comments in five areas, which are briefly summarized and explained in more detail below.

1. **Expectations of Supplemental Support from State Universal Service Funds.** Given the diminishing number of landline customers, the IUB anticipates that the state support would need to come from universal service assessments against wireless, wireline, and VoIP subscribers. Two bills have been introduced in Congress that would impose a five-year moratorium on further state charges against wireless services. If enacted, the bills could put state support of the National Broadband Plan (Plan) at risk. Even if a moratorium on wireless surcharges is not enacted, the IUB believes the Commission needs to be more explicit and to better quantify the level of supplemental support it expects from states. The IUB also comments on potential difficulties in identifying VoIP subscribers for state universal service assessments and the lack of verifiable data pertaining to local exchange carrier (LEC) costs in Iowa. Finally, the IUB cautions the Commission against implementing policies that would overly burden consumer contributions to either the federal or state universal service funds. This would include mandating comparable upload and download speeds for rural and urban areas.
2. **The Identical Support Rule.** The IUB favors gradually reducing support to competitive Eligible Telecommunications Carriers (CETCs) over a period of five years. The IUB recommends locking the state's Identical Support amounts at 2010 levels before the funds flow to the CAF and Mobility Funds for future deployment of broadband in underserved and unserved areas. There should be no guarantee that the same carriers that received Identical Support funds would receive the transitioned funds through the CAF or Mobility Funds.
3. **Redirecting Interstate Access Support (IAS) to Broadband.** Similarly, the IUB supports the Commission's proposal that states would receive at least the same amount of CAF support as the state received in IAS, and those funds should be used for the deployment of broadband in underserved and unserved areas.

4. **Disaggregation of USF Support.** The IUB comments that the proposal could overwhelm the limited resources of the state commissions.
5. **Annual Certification Process for Eligible Carriers.** The IUB recommends the Commission implement measures to standardize the process.

1. **Expectations of Supplemental Support from the States**

Background

Both the Plan and the NPRM reflect the Commission's intent to manage the USF so that its total size remains close to its current level (in 2010 dollars) in order to minimize the burden of increasing universal service contributions on consumers.¹ The NPRM notes, however, that carrier groups representing mostly small and rural carriers have questioned whether the Plan itself is at risk of failure because of the proposal that nationwide broadband deployment be accomplished without increasing the size of the USF in real terms.² The Commission seeks comment on how to "encourage or require" states to support universal service in partnership with the federal government.³

The NPRM notes that 21 states currently operate high-cost universal service funds, more than 40 states operate low-income universal service funds, and several states operate funds to encourage broadband deployment and telehealth initiatives.⁴ Iowa appears to be in the minority as it currently operates no state universal service fund. Nevertheless, the IUB is concerned about the

¹ NPRM, para. 413.

² NPRM, FN 588.

³ NPRM, para. 87.

⁴ NPRM, FNs 141-144.

Commission's expectations of supplemental support that will come from the states, including Iowa.

In a recent state matter known as the ITA Tariff proceeding, the Board reviewed and ultimately reduced the intrastate access rates charged by most of Iowa's rural incumbent local exchange carriers (ILECs).⁵ The intrastate rates in the ITA Tariff were reduced by approximately \$0.03 per minute, to the level of the interstate NECA Tariff No. 5. However, by administrative rule ILECs in Iowa have been allowed to charge a carrier common line charge (CCLC) of up to \$0.03 cents per minute in addition to their tariffed intrastate switched access rates.⁶ Thus, after the Board reduced the ITA Tariff, rural ILEC intrastate access rates were at parity with the interstate NECA Tariff No. 5, plus \$0.03 per minute for the CCLC.⁷ In the same order, the Board announced its intention to commence a rule making to consider the elimination of the CCLC.

In deciding the ITA Tariff access rate reductions, the Board noted that ITA's argument for cost recovery, through intrastate access charges, was focused on the revenues rather than the costs associated with each rate element. The Board also noted that the ITA did not present any evidence regarding the costs of the LECs that concur in the ITA tariff. Rather, the ITA stated that no Iowa costs were used in the development of ITA Tariff.⁸ The IUB notes that Iowa's end user telephone rates are not regulated, and the IUB itself collects little financial or

⁵ See [Final Order](#) in Docket Nos. TF-07-125 and TF-07-139, in which the Board reduced the intrastate access rates of the Iowa Telecommunications Association's Access Service Tariff No. 1 (ITA Tariff) by approximately \$0.03 per minute. Most of Iowa's rural incumbent local exchange carriers concur in the ITA Tariff.

⁶ See the IUB's rules at [199 IAC 22.14\(2\)"d"\(1\)](#).

⁷ In the ITA Tariff proceeding, the Board also stated its intention to review the administrative rules authorizing the CCLC. That rule making has not been initiated.

⁸ See [Final Order](#) in Docket Nos. TF-07-125 and TF-07-139, p. 8.

operating data from Iowa LECs. The IUB would likely need to increase data collection to insure prudence, accountability, and transparency before determining the support levels for an Iowa universal service fund. Similarly the Commission would need to implement an appropriate and verifiable data collection process in reforming the USF and before disbursing funds from the CAF.

After the ITA Tariff proceeding, some rural carriers in Iowa began to increase local exchange rates paid by end users to help offset the revenue losses associated with the reductions to the ITA Tariff. Rural carriers also began to advocate an Iowa universal service fund to offset their loss of access revenues. In September 2008, the Board opened an inquiry to determine whether there is a need for an Iowa universal service fund.⁹ An August 25, 2009, report submitted by the Iowa Telecommunications Association indicated the size of an Iowa fund necessary to counter the alleged revenue shortfall was as high as \$42 million per year. This amount was based on the assumption that the ILECs would retain authority to continue charging the \$0.03 per minute CCLC.

After the Plan was released in March 2010, it became apparent that the Commission intended to implement reforms to ICC that, over time, could further reduce or eliminate both interstate and intrastate access charges. The Plan also proposed reforms to the federal USF that could create an ICC recovery mechanism to compensate ILECs for lost access revenues. With the uncertainty over the ICC and USF revenue mechanisms, as announced in the Plan, the Board issued an order that closed the inquiry into an Iowa universal service fund

⁹ See [Order Initiating Inquiry](#), Docket No. NOI-08-2, issued September 12, 2008.

and deferred action on initiating a rule making to review the CCLC. The Board explained it would be impossible, at that time, to accurately determine the appropriate support level for an Iowa universal service fund. In the same order, the Board opened a new inquiry to examine broadband deployment in Iowa and the impact of the National Broadband Plan.¹⁰

The Commission's intention of holding USF funding to 2010 levels, while expanding broadband deployment and reducing ICC, has the potential to put serious financial strain on state universal service programs. State universal service programs will ultimately be funded by explicit charges on consumer telephone bills similar to the way the federal USF is assessed to consumers. Iowa (and likely every other state) has seen a pronounced decline in the number of landline access lines over the past decade and rapid growth in wireless telephone subscribership. If the trend continues, the number of wireless subscribers will soon be twice the number of landline subscribers in Iowa.¹¹

Although reliable data exists for tracking wireless and landline subscribership, tracking voice over Internet protocol (VoIP) subscribership is problematic. VoIP services benefit from the use of telecommunications and broadband networks, yet at this point it would be difficult for the IUB even to make an educated guess at the current levels of VoIP subscribership in Iowa. As telecommunications and broadband networks are further developed to support more advanced services, VoIP subscribers should not escape the federal or state universal service

¹⁰ See [Order Initiating Inquiry and Appointing Inquiry Manager](#), Docket No. NOI-2010-0002, issued August 25, 2010. See p. 16 regarding the Board's reasoning for deferring action on an Iowa universal service fund and for deferring a review of the CCLC.

¹¹ See IUB's [2009 Market Monitoring Report](#), pp. 6-16.

obligations that may fall on the subscribers of wireless and traditional landline services. The success of an Iowa universal service fund would rely on the inclusion of revenues derived for the subscribers of all types of voice services that benefit from the use of telecommunications and broadband networks.

The wireless industry appears to have taken note of the Commission's intent to "encourage or require" states to support universal service in partnership with the federal government. In early March 2011, the Wireless Tax Fairness Act was introduced in the House (HR 1002) and Senate (S 543) to impose a five-year moratorium on new state and local discriminatory wireless taxes. If enacted, the states currently without state universal service funds could be precluded from assessing wireless subscribers for costs associated with reforms tied to the Plan. If enacted, the concern from carriers whether "the Plan itself is at risk of failure" has that much more credibility.¹²

IUB Comments

Even if a moratorium on wireless surcharges is not enacted, the IUB believes the Commission should be more explicit and should better quantify its expectations of supplemental support from state universal service funds. As noted above, prior to the ICC reforms announced in the Plan, the rural carriers in Iowa estimated that an Iowa universal service fund could be as large as \$42 million per year. To the extent this amount represents revenue replacement for reductions in switched access charges, the IUB comments that the statute authorizing an Iowa universal service fund bases providing support on "the difference between the cost of providing universal service and the prices

¹² NPRM, FN 588.

determined to be appropriate for such services.”¹³ The IUB interprets the statute to mean that support should go to high-cost areas in Iowa based on verifiable economic criteria and not a particular carrier’s history of receiving certain revenue streams. Nevertheless, the primary source of any support provided will likely be mandatory consumer contributions. If consumer contributions are perceived to be overly burdensome, then the Plan may need to be scaled back in scope or timing. Whether consumer contributions are labeled Federal USF or State USF is not the concern. The concern is the total amount of contributions that consumers would be required to pay.

Related to this concern is the broadband threshold speed for universal service. The Plan sets an initial target of 4 Mbps actual download and 1 Mbps actual upload. This compares to the Plan’s aspirational goal of 100 Mbps actual download and 50 Mbps actual upload by the year 2020 for urban areas of the country.¹⁴ As the Commission notes, there have been a variety of comments from rural carriers and rural states that the 4-down/1-up speed tier would “create a permanent rural/urban digital divide.”¹⁵ However, Blair Levin, who served as Executive Director of the Commission’s Omnibus Broadband Initiative, recently stated that rural/urban comparability was specifically considered in developing the Plan. Mr. Levin stated that bringing the higher urban speeds to rural areas would require a \$30 per month assessment to every consumer in the United

¹³ See [Iowa Code § 476.102](#) (Universal Service).

¹⁴ National Broadband Plan, Goal No.1.

¹⁵ NPRM, para. 111.

States.¹⁶ The IUB cautions the Commission about implementing threshold speed policies that would overly burden consumers. Such policies, although laudable in concept, risk irreparable damage to the Plan itself.

Finally, states that currently lack their own universal service programs will need clear direction regarding the Commission's expectations. States like Iowa will need to know well in advance key design parameters, data requirements, the operational timing of their universal service programs, and the expected levels of state support so that entirely new systems can be created and implemented.

2. Elimination of the Identical Support Rule

Background

The Identical Support Rule provides CETCs with the same per line amount of high-cost universal service support as the ILEC serving the same area.¹⁷ The original intent was that the rule would be a means of promoting competitive neutrality by providing equivalent support amounts for both incumbent and competitive carriers. However, this has resulted in multiple service providers receiving high-cost support for the same customers in the same study areas and has contributed to the growth in the federal USF. The primary issue that has plagued the Identical Support Rule is the basing of USF support for the CETC on the costs incurred by the ILEC. The ILEC and CETC usually have different cost structures, particularly when they use different technologies to provide service.

¹⁶ See [Universal Service and Broadband Policy](#), Blair Levin, Vodafone Conference, November 29, 2010, pp. 29-31. Additionally, see "Broadband: Rural-Rural Divide is the Real Problem," Blair Levin, [The Des Moines Register](#), November 23, 2010, p. 11A.

¹⁷ See 47 CFR 54.307.

Iowa CETCs received \$58.9 million in Identical Support in 2010.¹⁸ The IUB supports the Commission's proposal to end the Identical Support Rule by gradually reducing the CETC support.

IUB Comments

The IUB recommends that Identical Support funds be phased into the CAF and Mobility Funds, over a period of five years, to be used for the deployment of broadband in underserved and unserved areas. The five-year transition would be consistent with other reforms the Commission has implemented to the USF in the past.¹⁹ The dollar amounts of the Identical Support funds to be phased into the CAF and Mobility Funds should be locked at 2010 levels for each state. For example, Iowa should continue to receive its historical allotment of \$58.9 million, but there would be no guarantee that the same Iowa carriers that received Identical Support funds would receive the transitioned funds through the CAF or Mobility Funds. Any CAF and Mobility Fund disbursements, of transitioned Identical Support dollars, should be subject to all other requirements adopted for those support mechanisms.

3. Redirecting IAS to Broadband

Background

The Commission proposes to transition funds from IAS for price cap carriers and CETCs to the CAF beginning in 2012, over a period of a few years. In 2010, IAS support in Iowa totaled \$10.6 million.²⁰ The Commission seeks comment on designating the CAF in a way that enables support associated with the IAS

¹⁸ See [2010 Annual Report](#), Universal Service Administration Company, p 50.

¹⁹ See for example, NPRM at para. 230 discussing the five-year transition in the May 2000 *CALLS Order*.

²⁰ See [2010 Annual Report](#), Universal Service Administration Company, p 48.

phase-down for incumbent carriers to be reserved for the same state in the CAF mechanism.²¹

IUB Comments

The IUB supports the Commission's proposal to transition IAS to the CAF. Under this approach, any state with carriers currently receiving IAS would receive at least the same amount of CAF support in the future, although there would be no guarantee that the same carrier that received IAS would receive CAF. Similar to the IUB's recommendation for the Identical Support Rule, IAS funding levels should be used for the deployment of broadband in underserved and unserved areas.

4. Mandatory Disaggregation of USF Support

Background

The Commission seeks comment on the proposal to require mandatory disaggregation of USF support while it develops and implements measures to transition more fully to the CAF.²² The Commission states that this will facilitate its ability to identify those areas most in need of ongoing support in the future. Disaggregating support will shift support within study areas to those areas that are more costly to serve, although disaggregation would not change overall support levels for incumbents. In addition, the Commission states that pending the phase-down of CETC support, disaggregation could also reduce existing CETC support by better identifying only those areas that require support to

²¹ NPRM, para. 238.

²² NPRM, para. 383.

provide services. The Commission has proposed a new rule mandating the filing of new disaggregation plans.²³

IUB Comments

The proposed rule would require the IUB to review approximately 140 disaggregation plans using limited staff resources which is an unrealistic burden. In addition, it is not clear how many of these plans may be challenged on the grounds that they are anti-competitive or do not comply with self certification requirements. If the Commission decides to proceed with disaggregation, then it should adopt a formula or model that can be used by small rural carriers for that purpose in order to ensure uniformity and reduce administrative burdens.

5. Annual Certification Process for Eligible Carriers

Background

The Commission notes that section 254(e) requires that a carrier shall use “support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”²⁴ The Commission requires annual certifications to enforce carrier accountability for use of high-cost program support.²⁵ The GAO found inconsistencies in the certification process among states and questioned whether such certifications enabled program administrators to fully assess whether carriers are appropriately using high-cost program support.²⁶ The Commission seeks comment on how to improve the certification process to make it more meaningful in light of the increased public

²³ NPRM, Appendix A, p. 232, § 54.315.

²⁴ NPRM, para. 475.

²⁵ 47 C.F.R. §§ 54.313, 314, 809, and 904.

²⁶ GAO High-Cost Report, p. 38.

interest responsibilities associated with the deployment of networks that are capable of providing both broadband and voice services. The Commission also seeks comment on requiring additional information from recipients concerning how funds were used and specifically what information should be submitted.

IUB Comments

The IUB recommends that any required information regarding how funds were used should be mandatory for all recipients in all states. The Commission should design specific reporting forms for all relevant information that state commissions will be required to review as well as clear standards for this review process. At that time, the IUB will be able to comment on the administrative burdens associated with a more rigorous certification process and will be able to compare the costs of that process to the potential benefits it would provide.

Conclusion

The IUB commends the Commission on its efforts to implement reforms that will make high-speed broadband deployment a reality for all of America at just and reasonable rates. The IUB looks forward to providing additional comments in other proceedings related to the deployment of the National Broadband Plan.

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Respectfully submitted,

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