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 MTPCS, LLC D/B/A CELLULAR ONE

MTPCS, LLC d/b/a Cellular One and its affiliates (collectively, "MTPCS") hereby submit comments in response to the Notice of Proposed Rule Making *("Notice")* in the above-captioned docket.[1] MTPCS is a facilities-based rural wireless carrier providing switched wireless GSM and CDMA voice and data communications services over its networks of hundreds of cell sites in rural Montana, Wyoming, Texas, Oklahoma, Louisiana, and the Gulf of Mexico.

[1] / *Notice of Proposed Rule Making, In the Matter of Universal Service Reform Mobility Fund,* WT Docket No. 10-208, FCC 10-182 (October 14, 2010) ("*NPRM*" or "*Notice*").

Chairman Genachowski recently stated: *"[H]ealthy competition produces greater innovation and investment, lower prices, and better service."*[2] We agree. MTPCS urges the Commission to recognize the benefits of healthy competition and not move to support mechanisms that will create or reinforce monopolies or duopolies. Regulatory enforcement is an expensive burden on the Commission. Cost-saving measures such as full portability can truly result in all networks "sharing the pain," with more reasonable enforcement undertakings for FCC staff.

In other countries, auctions for support demonstrate that incumbent carriers are willing to bid past zero in order to drive small new competitors out of an area.[3] This would not serve the public interest. Mid-sized and small carriers nimbly meet customer needs and generally receive higher consumer satisfaction ratings than national carriers.[4] Consumers benefit from local price plans and diverse service offerings extended by smaller and mid-sized regional carriers.

MTPCS respectfully urges the Commission to recognize that the best path to broadband is preservation of the ability to deploy it as an efficient incremental investment on existing networks. When cell sites are constructed and equipment deployed, installation of broadband is merely an incremental investment and should be pursued rather than waste and abuse of large steel towers and productive base station assets, as well as any microwave links, already deployed through the use of USF support. Although the operating costs of wireless carriers in rural areas cannot be supported with air and a wish – the real world costs include but are not limited to site rentals, major utility consumption in electricity usage, backhaul, and payments to other carriers

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[2] / Chairman Julius Genachowski, speaking to CTIA Wireless 2011, March 22, 2011.

[3] / *See* Scott Wallsten, *Reverse Auctions and Universal Telecommunications Service: Lessons from Global Experience*, Fed. Comm. L. J., 61:373, 387, 394 (April 2008).

[4] / See, e.g., the long-running American Consumer Satisfaction Index for wireless telephone service (2010): "all others" score higher in customer satisfaction than Verizon, T-Mobile, AT&T, Sprint and Nextel.

and vendors for support – these costs are nevertheless very reasonable in light of the modern services provided to broad rural areas by cellular coverage.

MTPCS asks the Commission to modify its proposals as follows.

1. **Keep Existing USF for Federal and State Identified Tribal Lands.** These deserving areas are among the most hard pressed for telecommunications.
2. **Keep Existing USF for areas with low population densities and median income less than the most recent U.S. Census estimate of the national average.** Consumers in remote areas with lower than average incomes need better communications options and coverage, not less.
3. **Adopt Common Sense Limits on Reductions.** To the extent limits are placed on support, there should be common sense preservation to ensure consumers continue to receive services they need. Local networks that best serve customers in rural areas represent infrastructure investments that should not be wasted, but kept for voice and broadband technologies.
4. **If the Commission nevertheless holds "reverse auctions," it should allow several winners in each area, the resulting support should be sufficient to offset the cost to the winner of meeting any additional regulatory requirements, and the rules should not impose excessive burdens on small businesses.** As the Small Business Administration recently concluded, "*Significant effort is necessary to open the broadband provider market to small businesses.*" [5]

Even if national carriers outbid smaller companies at auction, they could not possibly replace small and mid-sized carriers' coverage within any reasonable timeframe. For years, for example, MTPCS has offered the only retail GSM services in Montana, receiving roaming traffic from the nation's other GSM carriers and enabling such customers to roam on MTPCS' cell sites, because the larger carriers had zero or insufficient other network in that state. In fact, until AT&T's recent purchase of certain Alltel licenses from Verizon, AT&T had no network of its own in the state of Montana.[6]

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[5] / "The Impact of Broadband Speed and Price on Small Business," Columbia Telecommunications Corporation for the SBA Office of Advocacy, available at http://archive.sba.gov/advo/research/rs373tot.pdf (November 2010).

[6] / As a result, for two years after introduction of the iPhone, Montanans had no retail source for iPhones, due to AT&T's exclusive handset agreement with Apple.

Rural carriers keep pricing and service options reasonable through healthy competition, and meet the needs of customers who need coverage beyond highways and urban areas. *No* wireless carriers aside from MTPCS currently serve certain areas within its rural markets. For example, in much of Montana, Cellular One is the only wireless carrier providing alternative coverage and calling plans to the two national carriers that cover portions of its areas. In some areas, Cellular One is the only carrier providing service. Areas where MTPCS provides the *only* or the *only reasonable* levels of coverage, according to our personnel's recent review, include but are not limited to Valier, Lavina, Avon, Bynum and Joliet, Montana; and Butler, Leedey, Hammon, Cheyenne, and Sweetwater, Oklahoma, and more.

Many small and mid-sized wireless networks of cell sites provide the only reasonable coverage of rural areas. **These sites should be maintained as a platform for broadband in rural areas**. Supporting only sites in unserved areas would risk insufficient reimbursement of core costs to enable operations: *underserved* areas, even if a supported competitor is also providing some coverage of such markets, also comprise a significant component of network expenses in rural areas. The proposed reverse auctions would create a patchwork of support likely to fail to sustain the significant expense of serving the unsupported high cost areas in the carrier's existing network that link together any acquired bits of the patchwork. This would be akin to the overwhelming underuse of rural development funds in past years due to the patchwork of places where such funds could be used – resulting in failure to achieve the policy goals those programs were designed to achieve.

We believe the Commission could also consider alternative mechanisms to reverse auctions as a means to show its continuing respect for the authority of states. States often conduct extensive proceedings, requiring maps, witnesses, affidavits, and inquiry into the expertise and

resources of the applicable carriers. The resulting competitive carriers are often subject to rules specifically designed to regulate CETCs' provision of service, as in Montana and Oklahoma. Although some states, perhaps populous states as an example, may be willing to stop designating carriers as eligible for support, other states may wish to retain the ability to permit or deny entry of additional carriers to sell service to their citizens, rather than moving to a federal reverse auction mechanism. State commissions might desire to undertake the consideration of cost model analysis or exemption eligibility in future support proceedings.

While a large carrier may build in rural states only so as to meet the needs of its urban consumers who happen to be traveling through such states – covering cities and highways – smaller carriers tend to build for local, rural consumers because they do not serve large urban markets. Spectrum in urban markets has been an enormous investment and generally is purchased by national carriers. Small rural carriers have portability incentives to provide good service to their rural market customers. In western Oklahoma, for example, MTPCS provides the best or only coverage of towns such as Reydon and Cheyenne and the Black Kettle National Grassland. These areas matter to us for reasons including the fact that rural areas are where our sales teams, engineers, and other executives and employees live and work and are part of the communities. As the federal GAO recently reported, **regional carriers invest a greater percentage of revenues in capex than larger carriers.**[7] These capital expenditures inure to the benefit of the public and demonstrate the importance of rural areas to rural carriers.

MTPCS urges adoption of reforms that will maintain necessary communications in underserved as well as unserved areas, including areas served by an unsupported carrier. In some areas, a large carrier or two may be willing to leverage revenues from New York or San Francis-

[7] / GAO Report, *Telecommunications, Enhanced Data Collection Could Help FCC Better Monitor Competition in the Wireless Industry*, http://www.gao.gov/new.items/d10779.pdf, at 20 (July, 2010).

co in order to provide roaming for their subscribers moving through rural areas. This fails to constitute service in the public interest. We note that with Verizon's relinquishment of Alltel's CETC status in Montana, and AT&T's decision not to request that status, no major carriers are showing willingness to comply with the Montana rule requiring 98% population coverage by CETCs in their designated areas. We suggest that enabling smaller carriers to thrive will best foster reasonable service and coverage in rural areas. And as Commissioner Clyburn noted in her April 8 remarks, "So many people depend—and I need to stress that word—***depend*** on their wireless phones in their everyday lives." As she also noted in those remarks, "***Sustained and vigorous competition in the wireless industry is paramount.***"

MTPCS supports reasonable cost models rather than reverse auctions. NTIA recently found that 21.1% of all rural respondents, equivalent to approximately two thirds of the rural consumers who viewed broadband at home as something they might need or want, cited cost as a factor in not having it.[8] Reverse auctions would not reduce the amounts paid by rural residents for broadband service. In fact, the opposite would be true, because auctions would result in the lowest possible support for any CETC winners or nationwide carrier winners (while potentially providing ILECs with duplicative "make whole" reimbursements). Low support payments will motivate only low expenditures for service to such areas, and high prices to consumers, in order to make up for any losses experienced in such areas by winning carriers.

We urge the Commission to require that *all* competitors, whether ILEC or CETC or other carriers, "feel the pain" of proportionate support withdrawal. An analogy would be if all companies including incumbents, rather than solely carriers with newer technologies, were subject to the cap steadily eating away at support for rural mobile networks in recent years, including in

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[8] / NTIA, *Digital Nation*, *Expanding Internet Usage: NTIA preview* (February 2011), at 5; see also Family Income Range correlation, *id.* at 8.

states where the diminution of federally administered support directly conflicts with state regulations requiring rigorous buildout by CETCs.

Alternatively, any "make whole" provisions or exemptions should be rationally related to the characteristics of rural areas and the needs of their citizens. Many rural areas are served by only one or two mobile service providers. Despite the beliefs of national carriers and other maps that optimistically color in an entire area when only a small portion receives some signal, the reality is that many holes in national carriers' coverage exist – often very large gaps – that are served by rural carriers offering customers a lower price alternative, frequently with plans better tailored to local needs. These carriers may show up as roaming partner coverage in national carriers' coverage maps, or may not be represented separately. These areas need rural carriers' existing coverage if they are to have reasonable mobile service at all. **The FCC should maintain support where population density and income levels are low.** Such areas are the least likely to receive attention from carriers not receiving support, and the most likely to be left behind in the transition to broadband without sufficient support.

Many tribal lands receive services only from one or two providers, and need to retain those services for necessary connections to outside services and support. The withdrawal of heretofore supported mobile networks could result in unserved reservations. *Lifeline support for tribal lands is not, standing alone, sufficient to support tribal lands operations by most facilities-based carriers, we believe. High cost support remains an important input to enable service to tribal lands.* Tribal Lifeline alone would not support the cost of building or maintaining cell sites in the vast, sparsely populated regions where MTPCS serves extensive tribal lands.

Unfortunately, rural areas most need solid coverage, for purposes including public safety, agriculture, distance learning, and telemedicine. Despite good intentions to the contrary, mere

regulation of a market dominated by one or two players, unaccompanied by free market incentives, has not proven a certain path to compliance, consumer satisfaction, and public safety.

Holding a "free market" auction to end up with a monopoly or duopoly would result in negative consequences on consumers. As Scott Wallsten notes, "policymakers must be clear about their objective. The existing evidence shows that reverse auctions can effectively reduce expenditures by promoting competition *for* the market rather than competition *in* the market." To the extent high cost is already diminishing as a result of Verizon and Sprint mergers, and perhaps other merger proceedings in the near future, it is unclear how much high cost chopping is still required, particularly since the current proposals would contravene the public interest in rural mobile services. As stated by the U.S. Department of Justice:

> ***"The history of competition in the mobile wireless market suggests that the entry of additional providers has resulted in consumers paying less, receiving new features and better handsets, and enjoying higher quality service."***

Department of Justice, *Ex parte, In the Matter of Economic Issues in Broadband Competition,* GN Docket No. 09-51 (January 4, 2010).

The converse is also true. A monopoly or duopoly carrier lacks marketplace incentives to provide a reasonable quality of service or coverage in rural areas. Due to portability of support – which we recommend that the Commission extend to all carriers for appropriate incentives - CETCs are motivated to invest in network buildout, modern technology, and customer satisfaction. The agency should build on its successes in facilitating these consumer benefits by dividing up the support for all carriers as it does for CETCs – allocated per customer in each supported area, moving from carrier to carrier with the customer. Support for existing ILECs, then, would not be duplicative of support for newer technologies, and all would receive fair treatment.

In conclusion, MTPCS asks the Commission to keep existing support for federal and state identified tribal lands, and for areas with low population densities and median incomes, to adopt common sense limits on support reductions, with glide paths calibrated to ensure customers do not lose supported mobile service before a replacement is implemented, to allow several winners of any auctions per area, ensure that all carriers "feel the pain" equally rather than only some sectors being "made whole" for reductions, and ensure that small businesses are not subjected to unreasonable support cuts or other burdens disproportionate to the impact of such carriers on the overall Fund. Existing mobile networks are ripe for deployment of broadband, and MTPCS is planning to install its broadband core starting this year provided support remains sufficient. Portability of support should exist among all market segments, as it provides optimal incentives to provide good service with minimum waste of funds. As the Small Business Administration recently concluded, "*Significant effort is necessary to open the broadband provider market to small businesses.*" [9]

Respectfully submitted,

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[9] / "The Impact of Broadband Speed and Price on Small Business," Columbia Telecommunications Corporation for the SBA Office of Advocacy (November 2010).

CERTIFICATE OF SERVICE

I hereby certify that, on April 18, 2011, I caused a true and correct copy of the foregoing Comments to be served by electronic mail on the following:

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