

**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

**JOINT COMMENTS OF
DOCOMO PACIFIC, INC., PR WIRELESS, INC., CHOICE COMMUNICATIONS,
LLC, AND AST TELECOM, LLC D/B/A BLUESKY COMMUNICATIONS**

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April 18, 2011

TABLE OF CONTENTS

SUMMARY	ii
I. INTRODUCTION.....	2
II. DISCUSSION	3
A. The Unique Challenges That Exist in Insular Areas Should Be Taken Into Account in the Commission’s Universal Service Reforms.	3
1. The Commission Should Ensure That Sufficient and Explicit Ongoing Universal Service Support Is Available for Carriers Serving Insular Areas.....	3
2. Deployment of Broadband Networks in Insular Areas Is Complicated by the Presence of Unique and Challenging Conditions and Circumstances.	4
a. Guam and the Commonwealth of the Northern Mariana Islands.	5
b. Puerto Rico.	7
c. U.S. Virgin Islands.	8
d. American Samoa.	9
B. The Commission Should Set Aside Funding and Establish Bidding Credits in the First Phase of the Connect America Fund for Carriers Serving Insular Areas.	10
C. The Transition to the Connect America Fund Should Account for the Special Circumstances of Carriers Serving Insular Areas.	12
D. The Commission Should Provide an Exception to Its “Competitive Bidding Everywhere” Approach in the Second Phase of the Connect America Fund to Ensure Sufficient Ongoing Support for Insular Areas.	15
E. In Determining the Overall Size of the Connect America Fund Mechanism, the Commission Should Account for the Provision of Prioritized Funding for Insular Areas.	17
III. CONCLUSION	18

SUMMARY

In reforming universal service and transitioning to the Connect America Fund (“CAF”), the Commission should take into account the unique challenges that exist in insular areas (“the Territories”). The Territories face depressed economic conditions, as well as forbidding terrain and sometimes volatile climatic conditions and geologic events, that combine to make the deployment of mobile broadband networks more challenging than in the United States mainland. Deployment of broadband networks in insular areas is complicated by the presence of these unique and challenging conditions and circumstances, and the Commission should, therefore, ensure that sufficient and explicit ongoing universal service support is available for carriers serving insular areas.

The Joint Commenters – providers of mobile wireless service in Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, and American Samoa – recommend specific actions the Commission should take to ensure that sufficient, explicit support is available to facilitate the deployment and operation of advanced mobile broadband networks in the Territories.

First, the Commission should set aside funding and establish bidding credits in the first phase of CAF for carriers serving insular areas. Such funding would be targeted specifically for use in accelerating broadband deployment in unserved areas in the Territories. If the Commission chooses not to establish any set aside for insular areas, for purposes of disbursing support for the first phase of CAF, then, at a minimum, the Commission should establish bidding credits for bidders proposing to deploy broadband networks in insular areas.

Second, the transition to CAF should account for the special circumstances of carriers serving insular areas. The Commission proposal to transition competitive eligible telecommuni-

cations carrier (“ETC”) support to CAF by reducing the interim cap on competitive ETC high-cost funding in annual 20 percent installments would have a devastating impact on insular areas. Accordingly, the Joint Commenters recommend that competitive ETCs serving the Territories should be exempt from this proposed phase-down of support, and reiterate their prior request to exempt competitive ETCs serving the Territories from the Interim Cap on competitive ETC support.

Third, the Commission should provide an exception to its “competitive bidding everywhere” approach in the second phase of CAF to ensure sufficient ongoing support for insular areas. Specifically, the Commission should not apply a single-winner reverse auction mechanism to any service area in the Territories, but instead should permit any eligible carrier “to provide both voice and broadband to customers in the area for a specific amount of ongoing support.”

Lastly, in determining the overall size of the CAF mechanism, the commission should account for the provision of prioritized funding for insular areas in light of the unique challenges posed by constructing, deploying, and maintaining telecommunications and broadband infrastructure. In addition, while the Commission may be justified in seeking to limit the size of the high-cost program, the sizing of the CAF should not be aimed at ensuring the entire universal service program remains at its current size; such a restriction could jeopardize the goals of the other components of the USF.

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Docomo Pacific, Inc. (“DPAC”), PR Wireless, Inc. (“PR Wireless”), Choice Communications, LLC (“Choice Communications”), and AST Telecom, LLC d/b/a BlueSky Communications (“BlueSky”), (collectively, the “Joint Commenters”), by counsel, hereby submit these Comments, pursuant to the Commission’s *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking* in the above-captioned proceeding,¹ regarding the Commission’s propos-

¹ *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,

als for universal service reform as they relate to Guam, the Commonwealth of the Northern Mariana Islands (“CNMI”), Puerto Rico, the U.S. Virgin Islands (“USVI”), American Samoa and other insular areas (collectively, the “Territories”).

I. INTRODUCTION

In response to the Commission’s *Notice of Inquiry and Notice of Proposed Rulemaking* last summer, carriers serving the Territories demonstrated that circumstances in the Territories are far different than in the United States mainland and, therefore, must be treated differently when it comes to USF reform. In the recent *Notice*, it is encouraging that the Commission recognizes these challenges and is soliciting comments, inter alia, on exemptions, set-asides, and preferences to ensure that high-quality voice and broadband services are available in all insular areas.² In addition, the Joint Commenters agree with many of the Commission’s proposed exemptions for tribal and Alaska Native areas, and suggest that such exemptions be extended to the Territories, which face similar challenges. As described more fully herein, the Joint Commenters urge the Commission to ensure that the challenges of serving the Territories are fully considered as the CAF is developed and the universal service program is reformed.

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, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13, 2011 WL 466775 (rel. Feb. 9, 2011) (“*Notice*”). The deadline for filing comments regarding sections of the *Notice* addressed in these Comments is April 18, 2011. *See Comment and Reply Comment Dates Established for Comprehensive Universal Service Fund and Intercarrier Compensation Reform Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, CC Docket No. 96-45, 01-92, WC Docket Nos. 03-109, 05-337, 07-135, 10-90, and GN Docket No. 09-51, Public Notice, DA 11-411 (rel. Mar. 2, 2011) at 1.

² *See, e.g., Notice* at paras. 211, 306-07, 341, 421, 584.

II. DISCUSSION

A. The Unique Challenges That Exist in Insular Areas Should Be Taken Into Account in the Commission’s Universal Service Reforms.

The Territories face depressed economic conditions, as well as forbidding terrain and sometimes volatile climatic conditions and geologic events, that combine to make the deployment of mobile broadband networks more challenging than in the United States mainland. These factors warrant universal service reforms that include policies and support mechanisms tailored to effectively address the unique needs and circumstances of the Territories.

1. The Commission Should Ensure That Sufficient and Explicit Ongoing Universal Service Support Is Available for Carriers Serving Insular Areas.

One of the issues on which the Commission seeks comment in the *Notice* is fundamentally important to consumers in the Territories. Specifically, the Commission, recognizing that “some high-cost, insular, and Tribal areas may need explicit support to maintain service because there may be no private business case to serve such areas[,]”³ seeks comment on how to reform universal service (and intercarrier compensation) “so that such areas receive any ongoing support necessary to ensure that they continue to receive quality and affordable services, and to ensure that providers serving those areas can continue to advance connectivity where it lags far behind the rest of the nation.”⁴

The Joint Commenters recommend in these Comments actions the Commission should take to ensure that sufficient, explicit support is available to facilitate the deployment and operation of advanced mobile broadband networks in the Territories. These recommendations include:

³ *Id.* at para. 492.

⁴ *Id.*

- Establishing a set-aside for Connect America Fund (“CAF”) funding, as well as bidding credits in the reverse auction mechanism, for carriers serving the Territories in the first phase of CAF;
- Providing for a transition from current high-cost funding to the new CAF support mechanisms that takes into account the unique circumstances and needs of the Territories;
- Enabling carriers serving the Territories to receive ongoing funding based on a forward-looking economic cost model in the second phase of CAF, or, alternatively, establishing a set aside and bidding credits, for carriers serving the Territories, as part of the reverse auction mechanism; and
- Ensuring that any cap placed by the Commission on the amount of ongoing CAF support is set at a level that accommodates the provision of prioritized funding to the Territories.

2. Deployment of Broadband Networks in Insular Areas Is Complicated by the Presence of Unique and Challenging Conditions and Circumstances.

Before discussing the Joint Commenters’ recommendations, the Joint Commenters provide in the following sections an overview of the characteristics and circumstances of the Territories served by each of the Joint Commenters, which demonstrates that these areas require the development and adoption of universal service reform measures that are tailored to ensure the availability of sufficient and explicit ongoing support for the deployment of broadband networks in these areas.

a. Guam and the Commonwealth of the Northern Mariana Islands.

Guam and the CNMI, located approximately 6,000 miles from the U.S. mainland, face unique topographic and climatic conditions, including mountainous areas, tropical storms, typhoons, tsunamis, and significant earthquake activity.⁵ These conditions all contribute to driving up costs related to the deployment and operation of broadband networks. For example, transport costs are much greater for businesses in Guam and the CNMI because all the supplies necessary for constructing and maintaining a telecommunications network must be shipped, stored, and provided at an added expense.

For more than six years, the CNMI has been plagued by a severe depression that has devastated its economy. Its Gross Domestic Product (“GDP”) has *decreased*, on average, by 4.2 percent annually during that period.⁶ The ravaging effects of the depression are reflected by the fact that the CNMI population has declined significantly and projected local revenues have dropped by approximately 35 percent between fiscal years 2006 and 2010. In addition, in 2004 – before the onset of the depression that is currently paralyzing the CNMI economy – the median household income in the CNMI was \$17,138 (compared to the national average (excluding the Territories) of \$44,684.⁷

⁵ According to GTA Telecom, it is not uncommon for construction costs for basic telephone service in Guam to run over \$1,000 per customer because of the need to bury infrastructure to insure that telephone service remains available during and after typhoons. *See* Comments of GTA Telecom LLC in WC Docket No. 03-109 (filed June 21, 2010) at 1.

⁶ *See Bureau of Economic Analysis Releases Estimates of the Major Components of Gross Domestic Product for the Commonwealth of the Northern Mariana Islands*, BEA News Release, BEA 10-24 (rel. June 7, 2010) (accessed at http://www.bea.gov/newsreleases/general/terr/2010/cnmi_060710.htm), at 1, *cited in* DPAC and IT&E Reply Comments, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, filed Aug. 11, 2010 (“DPAC Reply”), at 5-6. During the same period, the GDP for the United States (excluding the Territories) *increased* by an average annual rate of 2.8 percent. *Id.*

⁷ *Income, Earnings and Poverty from the 2004 American Community Survey*, U.S. Census Bureau (2005).

In Guam from 2002 to 2007, real GDP grew at an average annual rate of 1.8 percent – certainly better than the decline in real GDP growth seen in the CNMI, but still far below the average annual growth rate for the U.S. (excluding the Territories) of 2.8 percent for the same period.⁸ It is estimated that 23% of the population on Guam lives below the national poverty level. Guam has a median income of \$40,373,⁹ which is lower than all but three other states in the U.S. mainland and \$12,300 less than the 2007 national average of \$52,673.¹⁰ From 2000 to 2008, consumer prices on Guam increased by 47.3 percent. When adjusted for this price change, the median salary on Guam decreased by 30 percent from 2000 to 2008.¹¹ A 30-percent decrease in price-adjusted income means that the same person working the same job could purchase 30 percent fewer goods and services in 2008 than they could have in 2000.

In addition, Guam faces severe challenges because of a U.S. military buildup that will take place over the next five years, which will cause an unprecedented population increase (approximately 40% or nearly 80,000 people at the peak of construction) which will significantly impact Guam’s very limited and aging infrastructure.¹²

⁸ *The Bureau of Economic Analysis (BEA) Releases Estimates of the Major Components of Gross Domestic Product for Guam*, BEA News Release, BEA 10-27 (rel. June 14, 2010) (available at http://www.bea.gov/newsreleases/general/terr/2010/guam_061310.htm), at 1. Guam is geographically remote from any major population center and its population base is smaller than any U.S. state and would rank 126th among U.S. mainland cities. See *Guam and CNMI Military Relocation*, Final Environmental Impact Statement, published by the U.S. Navy (July 2010) at 16-18 (accessible at http://www.guambuildupeis.us/documents/final/volume_2/Vol_02_Ch16_Socioeconomics_and_General_Services.pdf) (“U.S. Navy EIS”).

⁹ 2008 Guam Statistical Yearbook Bureau of Statistics and Plans from the Bureau of Planning, Government of Guam.

¹⁰ See Median Household Income for States: 2007 and 2008 American Community Surveys (Sept. 2009) (accessible at www.census.gov/prod/2009pubs/acsbr08-2.pdf).

¹¹ See U.S. Navy EIS at 16-11.

¹² EIS: 79,718 new people on island by 2014, by Erin Thompson, Pacific Daily News (published Nov. 21, 2009).

b. Puerto Rico.

Puerto Rico is located at the boundary between the Caribbean and North American tectonic plates, which raises the level of risk that the island will experience earthquakes and tsunamis. Puerto Rico also experiences hurricane season annually, for approximately five months out of the year. The severe tropical weather in the Caribbean region also often requires frequent repair of existing telecommunications infrastructure due to storm damage.¹³

A persistent four-year recession has increased chronic unemployment in Puerto Rico to a rate of 16.1 percent, well above the 8.8 percent unemployment rate on the U.S. mainland.¹⁴ The economic decline plaguing the island has made it difficult for the government to deliver essential services. In addition, after the loss of special tax incentives for U.S. firms operating in Puerto Rico, there is growing concern that the Commonwealth lacks the capacity to support economic growth.¹⁵

Poverty is a dismal fact of life in Puerto Rico. The median income for households in Puerto Rico is \$18,610,¹⁶ compared to a median income of \$52,175 for all households in the United States.¹⁷ In Puerto Rico, 41.4 percent of all families are below the poverty line, and 49.6

¹³ See AST Telecom, LLC d/b/a BlueSky Communications (“BlueSky”), Choice Communications, LLC (“Choice Communications”) and PR Wireless Comments, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, filed July 12, 2010 (“BlueSky, Choice and PR Wireless Joint Comments”), at 4-5.

¹⁴ Bureau of Labor Statistics, United States Economy at a Glance, accessed at www.bls.gov/eag/eag.us.htm. The figure for the Puerto Rico is for February 2011, and the U.S. figure is for March 2011. *Id.*

¹⁵ White House Task Force Hears Puerto Rico Grievances, Reuters, Mar. 3, 2010, accessed at <http://www.reuters.com/article/idUSTRE6225HU20100303>, cited in BlueSky, Choice and PR Wireless Joint Comments at 6.

¹⁶ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Social Characteristics and Table S1901.

¹⁷ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1901.

percent of families with related children under 18 are below the poverty line. In the United States as a whole, 9.6 percent of families are below the poverty line.¹⁸

c. U.S. Virgin Islands.

The U.S. Virgin Islands are also saddled with poor and worsening economic conditions. The median income for households in the USVI is \$34,983,¹⁹ compared to a median income of \$52,175 for all households in the United States.²⁰ Per capita income in the USVI is \$19,787,²¹ compared to \$27,466 for the United States overall.²² In the USVI, 23.8% of all families are below the poverty level, more than double the percentage in the United States as a whole (9.6%).²³

The economic situation in the USVI is continuing to worsen. With tourism as the primary industry, the total number of visitors in 2009 was down 13.1% from 2008.²⁴ While the U.S. mainland economy has begun to emerge from the downturn, USVI is expected to lag behind the mainland as it pulls out of its own recession.²⁵

¹⁸ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1702.

¹⁹ Source: 2007 Virgin Islands Community Survey, Eastern Caribbean Center, University of the Virgin Islands. The median income in the USVI is approximately 33% less than the median income for all households in the U.S.

²⁰ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1901. Per capital income in the USVI is approximately 28% less than in the United States overall.

²¹ United States Virgin Islands Business Opportunities Report, United States Dept. of Interior, Office of Insular Affairs (2008) at p. 5.

²² U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Social Characteristics.

²³ U.S. Census Bureau, 2006-2008 American Community Survey 3-Year Estimates, Table S1702.

²⁴ Source: U.S. Virgin Islands 2009 Economic Review and 2010 Outlook (US Bureau of Economic Research, Oct. 2009) at p. 4.

²⁵ *See id.* at p. 3.

Along with Puerto Rico, USVI lies at the boundary between the Caribbean and North American plates, which also produces earthquakes and tsunamis. Like Puerto Rico, USVI experiences an annual hurricane season of approximately 5 months.

d. American Samoa.

The most recent U.S. Census data paint a compelling picture for the declining economy in American Samoa. From 2002 to 2007, American Samoa's GDP grew at an average annual rate of 0.4%, compared to an annual rate of 2.8% in the United States (excluding the territories).²⁶ Federal data show that median annual inflation-adjusted earnings in American Samoa declined by approximately 6% from 2006 to 2008.²⁷ Income levels lag far behind those in the mainland United States; according to the Census, 61.0% of the population of American Samoa had incomes below the poverty level in 1999, compared to 9.6% in the mainland United States.²⁸

The economic situation became more acute following the September 2009 closure of a tuna cannery owned by Chicken of the Sea, resulting in the loss of more than 2,000 jobs.²⁹ More recently, StarKist Co. announced that it will be reducing its American Samoa workforce by 600-800 positions.³⁰ The resulting reductions were projected to reduce the company's territorial employment

²⁶ News Release, "The Bureau of Economic Analysis (BEA) Releases Estimates of Gross Domestic Product for American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands" (May 5, 2010).

²⁷ American Samoa and Commonwealth of the Northern Mariana Islands: Wages, Employment, Employer Actions, Earnings, and Worker Views Since Minimum Wage Increases Began (United States Government Accountability Office, April 2010).

²⁸ See U.S. Census Bureau, Table PBG79, Poverty Status in 1999 by Age, Data Set: American Samoa Summary File.

²⁹ Fili Sagapolutele, "COS Samoa Packing Announces Sept. 30 Shut Down With More Than 2,000 Jobs Affected," Samoa News Online (May 2009).

³⁰ StarKist Press Release, "StarKist to Make Significant Additional Job Reductions in American Samoa" (May 13, 2010).

from its high of more than 3,000 in 2008 to less than 1,200 workers.³¹ The combined workforce reductions, amounting to 3,800 jobs, comprise over 20% of the total American Samoa workforce.³²

As with many other insular areas, American Samoa frequently experiences tropical cyclones, earthquakes and even tsunamis because of its positioning in the South Pacific Ocean. In 2009, an 8.1 magnitude earthquake produced a devastating tsunami in American Samoa.

B. The Commission Should Set Aside Funding and Establish Bidding Credits in the First Phase of the Connect America Fund for Carriers Serving Insular Areas.

The Commission proposes to use a single-winner reverse auction mechanism to fund the first phase of CAF, explaining that the “new support mechanism . . . would co-exist with our other, existing support mechanisms, and funds provided to an area through the CAF would not reduce existing support mechanisms in the same area.”³³ With respect to insular areas, the Commission seeks comment “on whether we should reserve some funds in the first phase of the CAF for bidders seeking to serve insular areas,”³⁴ and on whether “there sufficient evidence that such a set-aside is necessary or appropriate”³⁵

The Joint Commenters urge the Commission to set aside funding in the first phase of CAF specifically for use in accelerating broadband deployment in unserved areas in the Territories. One reason for doing so is that, as the Joint Commenters have demonstrated in these Com-

³¹ *Id.*

³² Source: CIA World Factbook at <https://www.cia.gov/library/publications/the-world-factbook/geos/aq.html>.

³³ *Notice* at para. 274. *See id.* at paras. 284-285. The Commission proposes “dedicate a defined amount of money to fund the first phase of the CAF[,]” *id.* at para. 274, and further explains that it proposes “to award a significant amount of funding, such as \$500 million to more than \$1 billion, through a technology-neutral reverse auction in 2012, with additional auctions potentially to follow.” *Id.* at para. 24.

³⁴ *Id.* at para. 306.

³⁵ *Id.*

ments, the challenges of geography, topographic and climatic factors, and economic conditions set the Territories apart from the U.S. mainland in important respects. These challenges make it extremely difficult, if not impossible, for the private sector to solve the problem of deployment broadband throughout the Territories.

While President Obama has committed to the goal of “invest[ing] in the next generation of high-speed wireless coverage for 98 percent of Americans[,]”³⁶ this goal is virtually unattainable in the Territories without the explicit dedication of universal service funding. The reason for this is that economic conditions and other factors the Joint Commenters have described foil the construction of any business case for broadband deployment in the Territories’ unserved areas.

A second reason for the establishment of a set aside for insular areas is that, in the absence of dedicated funding, the reverse auction mechanism (depending upon how it ultimately is structured by the Commission) may make it difficult for any CAF support to find its way to the Territories during the first phase of CAF implementation. The costs involved in deploying broadband networks in the Territories are exceedingly high compared to costs that are prevalent in most rural and high-cost areas on the U.S. mainland.

As a result, if carriers seeking to serve the Territories participate in reverse auctions in which other participants are vying for funding in order to deploy broadband on the mainland, it would be difficult for carriers seeking to serve the Territories to “win” in the reverse auctions because their costs would prevent them from underbidding other carriers whose proposed service areas are on the mainland.

³⁶ President Barack Obama, Remarks by the President on the National Wireless Initiative in Marquette, Michigan, at 8 (Feb. 10, 2011) (unpaginated transcript).

If the Commission chooses not to establish any set aside for insular areas, for purposes of disbursing support for the first phase of CAF, then, at a minimum, the Commission should establish bidding credits for bidders proposing to deploy broadband networks in insular areas.³⁷ The bidding credits should be structured in a manner that would provide carriers seeking to serve insular areas with an opportunity to receive CAF support notwithstanding the disproportionately high level of costs associated with broadband deployment in insular areas. As the Joint Commenters have discussed, in the absence of a device such as bidding credits, carriers seeking to deploy broadband networks in insular areas would face prohibitive odds in their attempt to secure CAF support through the reverse auction mechanism.

C. The Transition to the Connect America Fund Should Account for the Special Circumstances of Carriers Serving Insular Areas.

The Commission proposes to transition competitive eligible telecommunications carrier (“ETC”) support to CAF by reducing the interim cap on competitive ETC high-cost funding in annual 20 percent installments, beginning in 2012.³⁸ The Joint Commenters recommend that competitive ETCs serving the Territories be made exempt from this proposed phase-down of support.

The Commission seeks comment in the *Notice* regarding whether “any reduction in competitive ETC support should include an exception for carriers serving Tribal lands or Alaska Native regions [such that] all competitive ETCs on Tribal lands or in Alaska Native regions would not be subject to the interim cap phase down.”³⁹ The Joint Commenters support such an exception, and believe that it should be extended to include carriers serving the Territories. Application

³⁷ See *Notice* at para. 307.

³⁸ *Id.* at para. 248.

³⁹ *Id.* at para. 259.

of the phase-down to carriers serving the Territories would have a crippling effect on these carriers' efforts to deploy broadband networks to serve consumers whose access to broadband lags far behind the level of access available to consumers on the U.S. mainland. "It makes no sense to constrain legacy mechanisms in these areas where carriers still struggle to deliver services that the rest of the nation takes for granted."⁴⁰ That observation was made by GCI in reference to difficulties faced by carriers operating in Alaska Native regions, but it applies with at least equal force to the Territories.

Phasing down high-cost disbursements currently received by competitive ETCs would make a difficult situation even worse in the Territories. The various conditions, problems, and challenges that the Joint Commenters have described⁴¹ combine to produce exceptionally high costs for the deployment and operation of broadband networks. The build-out of infrastructure, the expansion and improvement of coverage, and the provision of high quality services to consumers at affordable rates would be impaired if current levels of funding are drained away by the Commission's proposed phase-down.

In fact, the Joint Commenters suggest that the Commission should go a step further in ensuring that sufficient universal service funding is available for broadband deployment in the Territories. Specifically, the Commission should adopt a proposal made last year⁴² to exempt

⁴⁰ General Communication, Inc. ("GCI") Comments, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 05-337, filed July 12, 2010, at 2 (footnote omitted).

⁴¹ See Section II.A.2., *supra*.

⁴² BlueSky, Choice and PR Wireless Joint Comments at 14-15. See Joint Reply Comments of DPAC and IT&E (filed Aug. 11, 2010) at 10-12.

competitive ETCs from the interim cap imposed on high-cost disbursements imposed in 2008.⁴³ The deployment of broadband networks in the Territories will provide substantial benefits to consumers and to the economies of each of the Territories.

Broadband serves as an important catalyst, “because few sectors of our economy offer greater opportunities for economic growth and improvements to our quality of life.”⁴⁴ Those opportunities and improvements are urgently needed in the Territories, and, in the Joint Commenters’ view, no credible policy interest would be served by making it more difficult for broadband deployment to assist in providing them. As DPAC and IT&E have explained:

Access to enhanced voice and broadband services will provide significantly improved access to data services to consumers residing in these notoriously underserved islands and will serve as an immediate source of employment. The harm that the CETC cap is causing to insular areas will continue to get worse as long as it remains in place.⁴⁵

The Commission seeks comment in the *Notice* regarding whether exceptions to the proposed phase-down should be adopted for competitive ETCs meeting specified criteria.⁴⁶ For the reasons discussed in these Comments, the Joint Commenters recommend that such an exception be established for competitive ETCs serving the Territories. Pursuant to the exception, support top these competitive ETCs should be calculated by continuing to apply the identical support rule, *on an uncapped basis*,⁴⁷ since this would accommodate line growth for the carriers eligible for the exception. Thus, under this approach, the Commission would instruct the Universal Ser-

⁴³ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Order, 23 FCC Rcd 8834 (2008), *aff’d*, *Rural Cellular Ass’n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009).

⁴⁴ Chairman Julius Genachowski, FCC, Remarks on Broadband, at 5 (Mar. 16, 2011).

⁴⁵ Joint Reply Comments of DPAC and IT&E at 11.

⁴⁶ *See Notice* at para. 253.

⁴⁷ *See id.* at para. 254.

vice Administrative Company to calculate the level of per-line support that each eligible carrier would be receiving, but for the imposition of the interim cap, and this level of support would apply (subject to line count adjustments) throughout the transition to the new CAF mechanisms.

D. The Commission Should Provide an Exception to Its “Competitive Bidding Everywhere” Approach in the Second Phase of the Connect America Fund to Ensure Sufficient Ongoing Support for Insular Areas.

The Commission seeks comment on a funding mechanism for the second phase of CAF under which, in each service area, the Commission, in lieu of applying a reverse auction mechanism, would offer the current carrier of last resort for voice services (*i.e.*, typically a wireline incumbent local exchange carrier) the opportunity to exercise a “right of first refusal” to provide both voice and broadband services to customers in the area for a specific amount of ongoing support.⁴⁸

Instead of applying this option to the Territories, the Joint Commenters suggest that the Commission should adopt a similar mechanism, but one that is better suited to the unique challenges of the Territories. Specifically, the Commission should not apply a single-winner reverse auction mechanism to any service area in the Territories, but instead should permit any eligible carrier “to provide both voice and broadband to customers in the area for a specific amount of ongoing support.”⁴⁹ Eligibility would be based in part on each carrier’s “commit[ment] to deploy [] a network capable of delivering both broadband and voice services throughout its service area, consistent with the coverage requirements and other public interest obligations of CAF fund recipients”⁵⁰

⁴⁸ *Id.* at para. 431.

⁴⁹ *Id.* (footnote omitted).

⁵⁰ *Id.*

The level of each eligible carrier's support would be determined through the use of a cost model, as proposed by the Commission in the *Notice*. "The amount of support offered would be determined by comparing the cost of serving the [carrier's] service area compared to a national cost benchmark. Support would be provided for costs above the benchmark."⁵¹

While ongoing support under the CAF mechanism would be available to more than one carrier in a service area pursuant to the Joint Commenters' recommended approach,⁵² support would be portable among service carriers, so that in cases in which a carrier wins a customer from another carrier, the CAF support will follow the customer to the new service provider.

The approach recommended by the Joint Commenters would serve the Commission's broadband deployment objectives in the Territories better than a single-winner reverse auction mechanism, because it would better account for the extraordinarily high costs associated with building out infrastructure and providing service in the Territories, and would ensure a sufficient level of funding (based on application of a cost model) to meet the unique requirements and needs that exist in the Territories.

⁵¹ *Id.* at para. 432.

⁵² The Commission indicates that:

To the extent we ultimately provide ongoing support to only one provider in each geographic area where support is available, we seek comment on whether there should be exceptions to the rule that only one provider should receive ongoing CAF support. For example, we seek comment . . . on whether there are unique circumstances in Tribal lands and Alaska Native Regions that would require ongoing funding of more than one provider, after the CAF is fully implemented.

Id. at para. 411. The Joint Commenters believe that the unique circumstances existing in the Territories, which have been described in these Comments, warrant ongoing funding of more than one provider. If the Commission makes funding fully portable, as the Joint Commenters recommend, then supporting more than one provider would not create any upward pressure on the overall size of the CAF mechanism. In addition, providing support to more than one provider would promote competitive entry, with numerous attendant benefits for consumers.

The Joint Commenters understand that a principal objective of the Commission in proposing the single-winner auction mechanism is to pursue its objectives for broadband deployment at the lowest practicable cost,⁵³ consistent with the Commission’s proposed principle of fiscal responsibility.⁵⁴ In the Joint Commenters’ view, however, the difficult circumstances faced by consumers, governments, and service providers in the Territories warrant an approach to universal service support that is not wedded exclusively to the dictates of cost containment. In any event, as the Joint Commenters have suggested, if the Commission were to make funding for carriers serving the Territories fully portable, this would serve the Commission’s goal of deterring overall Universal Service Fund growth.

E. In Determining the Overall Size of the Connect America Fund Mechanism, the Commission Should Account for the Provision of Prioritized Funding for Insular Areas.

The Joint Commenters support the Commission’s proposal to set an overall budget for the CAF such that the sum of the CAF, together with any modified high-cost program, is equal to the current size of the high-cost fund.⁵⁵ The Commission has also requested comment on the factors to be used in sizing the CAF, including “prioritization of certain unserved areas (such as Tribal lands)”.⁵⁶ In light of the unique challenges posed by constructing, deploying, and main-

⁵³ See *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, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657, 6666 (para. 19) (2010) (indicating that the Commission is contemplating a reverse auction mechanism that will “identify the provider that will serve the area at lowest cost”) (internal quotation marks omitted) (quoting Omnibus Broadband Initiative, FCC, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN (Mar. 16, 2010) at 145).

⁵⁴ Fiscal responsibility is one of four principles guiding the Commission’s reform efforts. See *Notice* at para. 10.

⁵⁵ See *Notice* at para. 414.

⁵⁶ *Id.* at para. 415.

taining telecommunications and broadband infrastructure in the Territories, the Commission should ensure that the factors for sizing the CAF include the prioritization of the Territories.

In determining the size and role of the CAF, the Commission should adopt its proposal to take into account the cumulative effect of all four USF programs in promoting the goals of universal service.⁵⁷ However, while the Commission may be justified in seeking to limit the size of the high-cost program, the sizing of the CAF should not be aimed at ensuring the entire universal service program remains at its current size. The remaining components of the USF have specific objectives and they must each be sized according to those programmatic goals. For example, the United States Government Accountability Office (“GAO”) recently reported that despite nationwide growth in the Lifeline program, the program is still serving less than one-third of potentially eligible participants on average.⁵⁸ Any artificial constraint on the Lifeline program caused by an overall limitation on the USF could jeopardize the goals of that program. Accordingly, the Commission should not attempt to ensure the overall size of the USF remains at current levels.

III. CONCLUSION

The Joint Commenters appreciate the Commission’s efforts to structure its CAF and universal service reform proposals in such a way that addresses the unique circumstances in insular areas. In order to fulfill the obligations of Section 254 of the Act, USF funding policies ***must*** take into consideration the particular and special situations faced in insular areas. The Joint Commenters are encouraged that the Commission is open to adopting set-asides for insular areas and taking other measures to ensure the Territories are not adversely impacted by the CAF transition and universal service reforms. At this critical juncture, it is essential that the Commission

⁵⁷ *Id.* at para. 416.

create a carve-out for the Territories to avoid disrupting high-cost support to the areas that need it most, and that the CAF be structure in a way that the Territories are not left behind as the nation pushes toward universal broadband.

Respectfully submitted,



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April 18, 2011

⁵⁸ See GAO, Improved Management Can Enhance FCC Decision Making for the Universal Service Fund Low-Income Program. GAO-11-11, at 13-17 (Washington, D.C.; October 28, 2010).