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May 17, 2011

Via Electronic Delivery

Ms. Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, D.C. 20554

Re: Notice of Ex Parte Presentations
WC Docket No. 10-90
CC Docket No. 96-45
WC Docket No. 05-337
GN Docket No. 09-51

Dear Ms. Dortch:

On May 16, 2011, Caressa D. Bennet and Kenneth C. Johnson of Bennet & Bennet, PLLC, and Ron Strecker and Gary Burke of Panhandle Telecommunication Systems, Inc. (“PTSI”), met with the Federal Communications Commission’s (“FCC” or “Commission”) Wireline Competition Bureau and certain legal advisors to FCC Commissioners regarding wireless competitive eligible telecommunications carrier (“CETC”) concerns. Specifically, in a series of meetings, PTSI met with 1) Christine Kurth of the Office of Commissioner Robert McDowell; 2) Angela Kronenberg of the Office of Commissioner Mignon Clyburn; 3) Margaret McCarthy of the Office of Commissioner Michael Copps; and 4) Sharon Gillett, Carol Mattey, Amy Bender, Trent Harkrader, Ted Burmeister, Patrick Halley, Rebekah Goodheart, and Alexander Minard of the FCC’s Wireline Competition Bureau.

PTSI discussed its roughly 6,000 square mile service area in the rural Panhandle portion of Oklahoma. PTSI, a wireless carrier and CETC, serves an area with a population density of approximately five customers per square mile, providing its customers with 3G EVDO data services and robust coverage. In its service area, PTSI has 33 cell sites while its competitor, Verizon Wireless, has only 8 cell sites. Unlike Verizon Wireless, a Tier I national carrier, PTSI provides 3G coverage beyond the major population centers and highways. PTSI has been able to provide such service due to ongoing high-cost universal service support. PTSI demonstrated that the loss of such support would lead to a degradation of the network and the economic need to turn down certain cell sites that would become financially unviable absent high-cost support.

PTSI noted that high-cost support enables PTSI to provide vital mobile services in the Oklahoma Panhandle that local industries rely upon to stay efficient. PTSI's wireless network is used for monitoring devices on sprinkler systems in the Agriculture industry and for in-the-field communications. Mobile wireless is used to monitor hog farms that are located in remote areas. The gas and oil industry, as well as the wind energy industry, also rely upon wireless monitoring and mobile communications for their employees in the field. High-cost support makes these crucial businesses more efficient due to PTSI's wireless network and allows PTSI to provide service where it would otherwise be economically inefficient.

PTSI noted that Verizon Wireless, while it allows PTSI customers to roam on the Verizon Wireless network, does not allow its own customers to enjoy 3G roaming on the PTSI network. In a similar vein, AT&T has informed PTSI that it does not want AT&T customers to enjoy 3G roaming on PTSI's 700 MHz system. PTSI pointed out that if nationwide carriers would allow their customers to utilize PTSI's 3G network, and other small rural wireless networks, such small carriers would not be so dependent upon universal service to run their high-cost networks. The roaming revenue that Verizon deprives PTSI of by not allowing Verizon customers to access PTSI's 3G data network could be used to keep lessen the amount of scarce USF dollars. Further, it would be in the public interest for nationwide carriers to encourage and allow their customers to roam and receive 3G services in rural areas where they have failed to build despite the fact that they hold the spectrum licenses to do so.

While PTSI opposes reverse auctions, should the FCC limit support to only one wireless carrier in any market, the following recommendations were discussed:

- Use the smallest market area when determining support and auction areas. PTSI suggested the use of counties since they are the building blocks of wireless service areas and would not favor large, nationwide carriers.
- Carriers that have already demonstrated their commitment to build and serve an area should be given preferences.
- Base high-cost support on a cost model or cost study in lieu of identical support.
- Require carriers receiving support to open books on their entire mobile operation. This ensures that support is not going to stockholders pockets, but to actual network expenses.
- Require carriers receiving support to provide data and voice roaming services to other carriers that are at or below national roaming rates (a national local wholesale rate, so to speak). Recipients would be required to make their networks available to other qualified carriers at this local wholesale rate, providing incentives for larger carriers to use smaller carrier networks, especially where smaller rural carriers have better coverage. This would drive minutes to smaller carrier networks and would reduce the average cost per minute for the smaller carrier. This would reduce dependency on universal service.

PTSI noted that its positions on these topics are consistent with comments filed by the Rural Telecommunications Group, Inc. ("RTG") and with PTSI's previous "WiPan" cost model filing. Both the RTG Comments and WiPan cost model description are attached to this Ex Parte letter.

Pursuant to Section 1.1206 of the Commission's Rules, this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Kenneth C. Johnson

Kenneth C. Johnson
Counsel for Panhandle Telecommunication Systems, Inc.

Attachments

cc (via email): Christine Kurth
Angela Kronenberg
Margaret McCarthy
Sharon Gillett
Carol Mattey
Amy Bender
Trent Harkrader
Ted Burmeister
Patrick Halley
Rebekah Goodheart
Alexander Minard

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

RURAL TELECOMMUNICATIONS GROUP, INC.

RURAL TELECOMMUNICATIONS GROUP, INC.

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Date: April 18, 2011

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SUMMARY

The FCC's proposal to transform the high-cost program of the universal service fund ("USF") into the Connect America Fund ("CAF") is a radical change that would harm rural America and run counter to the Commission's and the Obama administration's broadband policy goals by diminishing the availability of wireless service in rural areas. Without ongoing rural high cost support, many rural wireless carriers will be unable to afford to continue providing wireless service to their rural customers. Because the large nationwide carriers routinely ignore the most rural parts of their service areas, choosing to focus solely on cities and the major highways that connect them, adoption of the Commission's proposal will leave individuals and businesses that live, work and travel in rural America without the economic and public safety benefits of advanced wireless communications. Not only does this proposal run counter to the public interest, it violates Sections 254 and 214(e) of the Communications Act and the Commission's longstanding principle of competitive neutrality by ensuring that support flows only to eligible telecommunications carriers.

To the extent the Commission proceeds to phase down current competitive ETC ("CETC") support, it should do so over an extended period, and retain CETC support for at least ten years. Such support cannot be deemed a replacement for ongoing high cost support for wireless CETCs. Ongoing support will be needed for rural wireless carriers to continue to provide advanced wireless services to high cost, hard to serve areas.

The use of reverse auctions to determine high cost support creates an incentive for anticompetitive behavior by the larger carriers. However, if the Commission chooses to ignore the public interest harms of reverse auctions, any reverse auctions adopted by the Commission should be targeted to unserved areas and based on qualitative factors including size, job creation, and demonstrated dedication to serving rural areas. Long term support should be based on carriers' actual costs. To fund the Commission's proposals, the base of contributors to the CAF should be expanded to include broadband service providers.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
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	)	
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	)	

To: Wireless Telecommunications Bureau

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP

The Rural Telecommunications Group, Inc. ("RTG"),[1] by its attorneys, hereby submits its comments in response to the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking ("USF NPRM")[2] in the above-captioned proceeding. RTG, like the FCC, supports the provision of broadband,

[1] RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education. RTG's members have joined together to speed delivery of new, efficient, and innovative communications technologies to the populations of remote and underserved sections of the country. Many of RTG's members are competitive eligible telecommunications carriers. RTG's members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RTG's members serves less than 100,000 subscribers.

[2] *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, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) ("USF NPRM").

especially mobile broadband, in all regions of the United States as a vital economic driver. However, the Commission's plan to phase-out ongoing support for competitive eligible telecommunications carriers ("CETCs") will harm rural businesses and rural Americans that increasingly rely on mobile services. RTG believes that with certain changes, discussed in more detail below, the FCC can promote the buildout of vital mobile services in genuine high-cost areas using the basic approach and mechanisms outlined in the USF NPRM, while remaining within the scope of its authority pursuant to the Communications Act of 1934, as amended ("the Act").

I. Introduction and Background

The Commission has proposed transforming the high-cost program of the federal universal service fund ("USF") into the broadband-focused Connect America Fund ("CAF").[3] The USF NPRM sets up both near-term and long-term proposals to radically change universal service as we know it. Near-term proposals include a phase-out of current support mechanisms and the creation of a system for distributing targeted, one-time support for deploying broadband networks in unserved areas,[4] while the long-term proposals are intended to create a framework for providing continued support to broadband providers that operate in hard-to-serve areas.[5]

The FCC insists that it is "not proposing to eliminate universal service support for communications services in high-cost areas of the country; rather, [it is] proposing to improve the efficiency and effectiveness of that support."[6] However, one of the Commission's near term

[3] USF NPRM.

[4] USF NPRM at ¶ 261.

[5] *Id*. at ¶ 398.

[6] *Id*. at ¶ 15.

proposals is to eliminate support in its entirety for wireless CETCs.[7] Such a proposal goes beyond mere "efficiency" -- it eliminates support entirely to CETCs who continue to need the support to operate wireless businesses in high cost areas. If this support is eliminated, some RTG members will not be able to continue to operate beyond a few months. RTG's members will also not be able to further invest in their current 2G and 2.5G networks to build 3G and beyond. Other RTG members who have already built 3G networks will not be able to advance those 3G networks to 4G networks without ongoing support.

RTG is extremely concerned that the radical changes proposed in the USF NPRM will have a detrimental effect on the continued availability of wireless service in rural areas, and as a result, will harm employment in rural areas which in turn will slow the economic recovery process. RTG's members collectively employ thousands of people in rural areas and support the ongoing business operations of numerous industries that employ hundreds of thousands of people across rural America. These rural Americans will be impacted negatively if wireless services are taken away or if they are allowed to atrophy as the rest of the country continues to receive even more advanced services. Rural consumers rely heavily on mobile services, due to the longer distances they drive between school, work, home, medical facilities and points of purchase. For many rural consumers, it is the small, rural wireless carrier that provides the most robust coverage in high-cost rural areas.

Current high-cost support has enabled many small, rural mobile operators to build out robust networks beyond the cities and highways served by nationwide carriers. Further, the agricultural industry, alternative energy industry, and oil and natural gas extraction industries all rely on robust rural wireless networks and mobile machine to machine applications to utilize our

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[7] The FCC proposes to eliminate the identical support rule and redirect all CETC support to the CAF. *See* USF NPRM at ¶¶ 241-60.

nation's natural resources to keep the entire nation sustained. The potential harm to these industries which primarily operate in rural areas, the potential job loss in rural America and the risk of losing mobile broadband services in these areas makes the FCC's decision to remove ongoing support for CETCs short-sighted and untenable for rural Americans. These harms will have a contaminating effect on all Americans. A lack of mobile communications will increase the cost of doing business in the agriculture and energy industries, which will result in higher costs across the United States, including urban areas, for food and energy.[8]

As discussed below, as the FCC phases down current identical CETC support, it should allow for an extended ten year transition period to a market-based mechanism that will provide support for mobile broadband using the mobile broadband carrier's actual costs on an ongoing basis. In addition, the Commission should expand funding distributed from the CAF Phase I fast track program to cover ongoing costs. While use of reverse auctions to determine high-cost support is contrary to the public interest, if the Commission chooses to adopt such auctions, they should be targeted to unserved areas and based on qualitative factors. Meanwhile, the long-term framework of the CAF must provide specific, predictable and sufficient support and the fund should be expanded through required contributions from broadband service providers.

II. To Ensure that America Continues to Experience the Benefits of Wireless Service as an Economic Driver, the Commission Must Continue to Support Existing Wireless Services in Rural Areas.

Today, American consumers want and need voice service and broadband Internet access service from both fixed and mobile providers. To a greater extent every year, consumers are

[8] Mobile broadband can improve the efficiency and productivity of a number of agricultural activities in rural areas. For example, "[f]armers, particularly those with smaller operations or in more remote locations, can materially benefit from real-time access to weather and crop reports and to databases of local and national agricultural extension services. [They] can be warned if there is a heightened risk of a plant blight, a livestock disease, or an insect infestation; examine the problem; and know immediately what they need to do to address it." FCC, *Bringing Broadband to Rural America, Report on a Rural Broadband Strategy*, ¶ 18 (May 22, 2009).

choosing mobile carriers as the service provider for their communications needs. Wireless is becoming the leading technology for both voice and data service, and consumers and businesses have come to expect mobile service, both for making phone calls and downloading email and accessing content over the Internet.[9]

The reach of wireless networks continues to expand. In the past few years, there has been major growth in the use of wireless data and data-rich wireless devices such as smart phones and tablets. According to one recent survey, data traffic on wireless networks in the last six months of 2010 totaled 226.5 billion megabytes -- an increase of 110 percent compared to the last six months of 2009 during which wireless data traffic totaled 107.8 billion megabytes.[10] Along with an increase in the U.S. wireless penetration rate, the wireless industry has also recently experienced growth in wireless subscriber connections, minutes of use, number of active smart phones, number of web-capable wireless devices, and wireless-enabled tablets, laptops and modems.[11] Future projections demonstrate that by the year 2013, monthly data usage on wireless networks will exceed 416,000 terabytes, an 800 percent increase over 2010 figures.[12] In the future, with 4G data applications, broadband video and a host of other data driven machine to machine applications and

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[9] "More than 27 percent of adults in the general population live in households with only wireless phones. USF NPRM at ¶ 8. Forty percent of 18-24 year olds have cut the cord. *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42; *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, ¶ 17 (Mar. 4, 2011) (citing Stephen J. Blumberg and Julian V. Luke, Centers for Disease Control and Prevention, National Center for Health Statistics, Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, Jan.-June 2010, 2-3, (2010)).

[10] *See* CTIA-The Wireless Association, *CTIA-The Wireless Association Announces Semi-Annual Survey Results*, Press Release (Mar. 22, 2011).

[11] *Id.*

[12] FCC Open Meeting, Presentation of the Wireless Telecommunications Bureau on Data Roaming Second Report and Order (April 7, 2011).

services that will be available – all carried on mobile networks – mobile data networks will become even more critical throughout the United States, including rural America.

Advanced wireless services have the ability to efficiently deliver broadband and voice services to *all* areas, including rural high-cost areas. Ongoing rural high-cost support will ensure the continued provision of mobile broadband in rural high-cost areas and expansion of coverage into unserved areas, consistent with President Barack Obama's announced initiative to ensure that 98 percent of the country has access to broadband 4G mobile broadband service.[13]

Although wireless has proven to be a great solution for providing broadband services in hard-to-serve areas, in certain cases, without high-cost support, rural wireless broadband networks would not be able to operate. With fewer customers from which to recover fixed switching costs and tower costs, carriers serving remote, rural areas rely on high-cost support to provide an essential revenue stream. Historically, RTG's members have used USF support to supplement the investments they have made in building out their mobile networks in remote, high-cost areas. When an RTG member builds a tower outside of town and away from the highway, it does so to provide much-needed coverage, even though its customer base typically makes such an expense economically unfeasible absent high-cost support. The ongoing USF support RTG members receive has allowed them to operate networks in hard-to-serve, rural areas, reaching rural consumers that would otherwise go without mobile service. Without high-cost support, many of RTG's members will operate in the red and eventually go under, depriving rural consumers of the benefits of mobile wireless service. Rural carriers once supported their rural network buildouts

[13] *See generally* State of the Union Address, President Barack H. Obama (January 25, 2011) ("Within the next five year, we'll make it possible for businesses to deploy the next generation of high-speed wireless coverage to 98 percent of all Americans."); Remarks on the National Wireless Initiative, President Barack H. Obama (February 10, 2011) ("We want to invest in the next generation of high-speed wireless coverage for 98 percent of Americans.").

with roaming revenue. When roaming revenue dried up, rural carriers were able to use high-cost support to build networks in areas that would otherwise be economically unviable.[14] Simply put, in virtually every case, a loss of high-cost support will make running a high-cost, rural mobile network unprofitable, and therefore unsustainable.

By abandoning ongoing support for CETCs, most of whom are mobile providers, the FCC is abandoning rural consumers and businesses that increasingly rely on mobile broadband applications. Mobile broadband not only contributes to economic growth and improves quality of life, mobile broadband is a key element in any public safety plan. The Commission must not lose sight of the demonstrated public safety benefits of basic mobile service and E911 location technology. Without ongoing support for wireless carriers to build out remote rural areas, residents and urban travelers in these areas will be without even the most basic access to emergency services.[15] Rural wireless carriers will play a critical role in supporting rural public safety officials. While public safety entities advocate strongly for their own spectrum and their own network, in rural and unserved areas it will be too costly to build two separate networks, one for commercial use and one for public safety use. Public safety entities and rural wireless carriers should combine resources and federal support to provide public safety-required features to a single 4G LTE network rather than building separate networks in rural areas and duplicating unnecessary expenses.

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[14] Tier I and Tier II wireless carriers generally build out just along the highways, not off the highways, in the rural areas. In the past, prior to these carriers building out along the highways, rural wireless carriers received roaming fees from these carriers who relied on rural wireless carriers for this coverage. Today, Tier I and Tier II carriers often choose to deny their urban customers access to mobile services provided by rural wireless carriers in rural areas. This denial of access to a rural carrier’s network means the urban customer gets no service and the rural carrier gets less roaming revenue to support that network and must rely even more heavily on federal support.

[15] The FCC noted in its USF NPRM that approximately half of all 911 calls today are made from mobile phones. USF NPRM at ¶ 4.

III. USF Reform Must Ensure the Flow of Support to Wireless ETCs Complies With the Communications Act.

The USF NPRM's proposal to eliminate current high-cost universal service support that flows to CETCs on a technology neutral basis[16] violates Sections 254 and 214(e) of the Act. The FCC proposal to use such high-cost support that used to flow to both incumbent and CETCs in order to fund the broadband-only CAF[17] is beyond the FCC's authority granted in Sections 214(e) and 254 of the Act.

Section 254(e) of the Act limits the class of entities that may receive universal service support to eligible telecommunications carriers ("ETCs") designated under Section 214(e). Pursuant to Section 214(e) of the Act, eligible telecommunications carriers must be "telecommunications" carriers and "common carriers."[18] Accordingly, the FCC lacks the authority to provide high-cost support to non-telecommunications carriers.[19] The FCC's proposal to provide support to non-telecommunications carriers oversteps its universal service authority outlined in Section 214(e) of the Act. The FCC should comply with the Act and ensure that support flows to eligible *telecommunications* carriers as Congress intended.

The FCC's proposal also violates the long established principle of competitive neutrality.[20] The principle of competitive neutrality requires that CETCs must be on equal footing as their

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[16] USF NPRM at ¶ 246.

[17] USF NPRM at ¶ 18.

[18] 47 U.S.C. § 214(e)(1).

[19] *See* Comments of the Rural Telecommunications Group, pp. 7-11; *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*, WC Docket No. 05-337, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657 (Apr. 21, 2010) (USF Reform NOI/NPRM).

[20] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8799-8806, ¶ 43-55 (1997).

incumbent ETC counterparts and that any adjustment in support for CETCs and incumbent ETCs must utilize a neutral timeframe. In other words, any proposal to phase-down high-cost support for CETCs at a faster rate than incumbent ETCs would violate the principle of competitive neutrality, as would any proposal to transition incumbent ETC support faster than CETC support. Accordingly, both ETC and CETC support must transition on the same ten year time frame.

The FCC's proposal to ratchet down CETC support over a five-year period at 20 percent a year until identical support is eliminated violates the principle of competitive neutrality by singling out competitive carriers, most of whom are wireless carriers, as unworthy of high-cost support. Adoption of the Commission's suggestions to "presumptively reduce"[21] the current competitive ETC support cap and "accelerate the phase down of competitive ETC support" would further violate the principle of competitive neutrality.[22] RTG opposes this discriminatory treatment of CETCs.

IV. The Commission Should Retain CETC Support Beyond 2016.

RTG opposes the FCC's near term proposal to "rationalize competitive eligible telecommunications carrier (CETC) support over five years" and "eliminate[e] the identical support rule no later than 2016."[23] In the USF NPRM, the FCC correctly acknowledges "the important benefits of and the strong consumer demand for mobile services" and declares "ubiquitous mobile coverage must be a national priority."[24] Nonetheless, the FCC has proposed to eliminate support necessary to achieve that goal based in part on its belief that USF funding for

[21] USF NPRM at ¶ 250.

[22] *Id.* at ¶ 257.

[23] *Id.* at ¶ 160.

[24] *Id*. at ¶ 241.

mobile networks must be more efficiently deployed than it is today. Such a proposal is shortsighted.

RTG's members have used support from the current USF to construct wireless networks in rural areas. Any new support mechanisms created within the CAF must take into account carriers' need to recover investments already made. Therefore, any phase out of support should provide for a transition over at least ten years given the highly capital intensive nature of wireless telecommunications expenditures. The proposed phase-out period of five years is simply too short for rural carriers who tend to use wireless network equipment and infrastructure for longer time periods than their urban counterparts. Carriers have based their business plans on the current system and will require a sufficient amount of time under any staged transition to adjust to new support structures.

A. Phase I Recipients Will Require Ongoing Support.

Permanent, ongoing support is vital to the provision of mobile broadband in high-cost rural areas. A "one-time" injection of funding through the Commission's proposed Phase I CAF fast track program is helpful, but the proposal to ultimately phase out support does not take into account the ongoing costs of capital upgrades needed to provide essential mobile services in high-cost regions of the country. Additionally, projects undertaken using funding from programs that provide one-time support for broadband infrastructure, such as the FCC's proposed mobility fund[25] or President Obama's wireless innovation initiative, will require ongoing support to be successful.

The proposed CAF *cannot* be used to replace ongoing high-cost support for wireless CETCs and should not be viewed as any kind of substitute for continued high-cost support. Rural

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[25] *Universal Service Reform; Mobility Fund*, WT Docket No. 10-208, Notice of Proposed Rulemaking (Oct. 14, 2010).

wireless carriers will require ongoing support to maintain the provision of advanced wireless services to high-cost, hard-to-serve areas.

B. The FCC Should Anticipate the Liberal Use of the Waiver and Exception Process.

The FCC suggests a few possible situations in which an exception or a waiver of the CETC phase out rule would be warranted.[26] For example, the FCC suggests a waiver may be granted if a CETC makes an affirmative showing that "its costs and revenues would not permit provision of service to a particular service territory, absent continued competitive ETC support, and that no other wireless carrier serve[s] that territory."[27] RTG supports a much broader use of the waiver process than is contemplated in the NPRM. There are many areas which are served by more than one carrier – generally a rural wireless company and a Tier I national carrier. However, in these areas, the national carriers generally only serve interstate highways and large population areas. They have not committed to covering the entire surrounding rural areas which are typically high-cost areas. Small local wireless carriers seeking to serve or that have historically served these areas should be presumptively granted a waiver.

An *ex parte* letter filed by a small wireless company demonstrates the type of situation faced by many rural wireless carriers, and provides an example of a situation in which a waiver for receiving continued support is warranted.[28] In this particular situation, Snake River PCS provides wireless service within an extremely rural part of Oregon which includes a number of small towns, unincorporated townships and remote National recreation areas. Two large wireless carriers have

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[26] USF NPRM at ¶¶ 250-255.

[27] *Id.* at ¶ 252.

[28] *See* Letter from Michael Lattin, President, Snake River Personal Communication Service, to Robert McDowell, FCC Commissioner, CC Docket No. 96-45, WC Docket No. 05-337, GN Docket No. 09-51, dated February 28, 2011, Received March 14, 2011.

a presence in the area, but only provide limited service to the most populated areas. The rural wireless carrier, supported by the USF, provides service that covers the sparsely populated areas, rural highways and the nearby National recreation areas that draw hundreds of thousands of visitors every year who depend on the ability to contact emergency services if they become injured. The type of situation described above can be found in other rural and remote areas of the country. Small, rural carriers that serve regions off the beaten path – areas where nationwide carriers serve only the most-traveled highway – should be eligible for a waiver of the FCC's CETC support phase out. Without some level of universal service support, wireless carriers covering these rural areas will not be able to sustain operations.

In addition to establishing a broad waiver process, the Commission should ensure that any elimination of CETC support allow for exceptions for Tribal lands and Alaska Native regions. Such areas are extremely difficult to serve, and therefore warrant support based on a carrier's actual costs. Finally, waivers and exceptions should not terminate after a set date as suggested in paragraph 255 of the USF NPRM.[29] The details on any long-term CAF mechanism remain murky, and the current circumstances that warrant the need for a waiver or exception are likely to exist in the future. Accordingly, the FCC should not propose a specific deadline on any waiver or exception until the long term CAF mechanism is in place and those impacted can determine the effect on continuing service.

V. Funding Distributed from the CAF Phase I Fast Track Program Should be Expanded to Cover Ongoing Costs.

In the first phase of its proposed CAF, the FCC proposes instituting a fast track program to make available nonrecurring, targeted support to a single entity using a competitive bidding system

[29] USF NPRM at ¶ 255.

for deployment of broadband networks in unserved areas.[30] RTG supports the use of the National Telecommunications and Information Administration's ("NTIA") broadband definition of 768k download speeds and 200k upload speeds as suggested by the Commission[31] to determine whether an area is served or "unserved." This definition basically ensures that, for wireless service, consumers with 3G service will be treated as served while those with 2.5G or less will be treated as "unserved." Areas that are unserved (*i.e.*, without 3G) should receive high-cost support to reach 3G capability. Later, as the country migrates from 3G to 4G, high-cost areas should receive support to obtain 4G services. RTG anticipates that this migration to next generation services will continue and that rural areas will always lag slightly behind urban areas, but urges the Commission to recognize that the public interest is served by supporting the cost of eventually upgrading rural areas to the level of their urban counterparts over time.

While RTG does not oppose this proposal to provide funding to unserved areas, support should not be limited to one-time support. Support for ongoing costs is an essential part of the provision of mobile broadband in rural high cost areas. If the wireless high-cost area is not supported on an ongoing basis, there is risk that the incentive to build will be lost. The Commission's tentative decision to ultimately eliminate CETC high-cost support on an ongoing basis does not recognize the ongoing costs associated with the provision of wireless high-cost support in rural areas. Moreover, the elimination of such support would deny support for services

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[30] *Id.* at ¶ 284.

[31] *Id.* at ¶ 291.

that the majority of consumers enjoy today and that Congress recognized in Section 254 are worthy of support. [32]

VI. The Use of Reverse Auctions to Determine High-Cost Support is Contrary to the Public Interest, But if Reverse Auctions are Adopted, They Should Be Targeted to Unserved Areas and Based on Qualitative Factors.

RTG opposes the use of reverse auctions to determine support for unserved areas, and as shown below, supports the use of actual costs to determine ongoing support amounts for wireless carriers. RTG believes reverse auctions will result in second-class service for wireless consumers in high-cost, rural areas. Reverse auctions create an incentive for anticompetitive behavior by the largest carriers. The largest wireless carriers will be able to make bids that are substantially lower than the actual cost of serving a rural area because they are able to spread their costs across their entire service area which typically consists of both low-cost-to-serve and higher-populated areas. There is an obvious economic incentive for a larger provider to use below cost bidding in order to put a smaller competitor out of business. For a larger carrier to do so will result in further concentration of the wireless industry and less and less choice for consumers, which in turn will result in fewer checks on the prices small market consumers pay for wireless services.

The Commission should not increase the concentration of wireless network ownership through reverse auction policies that favor large carriers. The largest carriers already have the economies of scale and scope to provide services below the actual cost in a rural area. To the extent these carriers choose to actually serve rural areas,[33] they do not need universal service support to do so.

[32] 47 U.S.C. § 254(c)(1)(B) (requiring the FCC, in determining what services are entitled to support, to consider the extent to which such services "have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers.").

[33] As noted herein, large carriers have typically chosen not to serve rural areas other than along interstate highways. *See also* Universal Service Reform Mobility Fund, Comments of the Rural

While RTG does not support the use of reverse auctions, it anticipates that the Commission will adopt them. To the extent the Commission chooses to adopt reverse auctions for unserved areas, RTG strongly recommends the use of cost-based, competitive bidding mechanisms for the determination of both one-time build out *and ongoing* support to unserved areas, only if such mechanisms focus on genuinely unserved areas and reflect the actual costs of providing robust broadband services in remote regions of the country. If a reverse auction is adopted for these unserved areas, only Tier II, Tier III and Tier IV wireless providers interested in serving these areas should be allowed to compete.

Tier I carriers[34] should not be allowed to participate in any auction or receive any high-cost support to serve unserved areas. Both Sprint and Verizon Wireless have already willingly given up high-cost support. They should not be allowed to receive support anew having once promised to give it up in order to be allowed to acquire significant interests in other carriers. Tier I carriers

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Telecommunications Group, Inc., WT Docket No. 10-208 (filed December 16, 2010) at p. 10 (asserting that the most obvious non-residential rural areas that lack mobile wireless coverage are transportation corridors, especially non-interstate highways and roads); *see also* Fourteenth Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Service, Reply Comments of the Rural Telecommunications Group, Inc., WT Docket No. 09-66 (filed July 13, 2009) at p. 11 (explaining that in many cases, rural carriers are the only carriers willing to serve sparsely populated rural regions outside of the towns and highways); Applications of Atlantis Holdings LLC, Transferor, and Cellco Partnership dba Verizon Wireless, Transferee, for Consent to the Transfer of Control of Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act, Petition to Deny of the Rural Telecommunications Group, Inc., WT Docket No. 08-95 (filed August 11, 2008) at p. 8 (noting that rural carriers are the only carriers willing to serve sparsely populated rural regions outside of the towns and highways).

[34] Tier I carriers are typically described as the four facilities-based mobile wireless service providers that have a nationwide footprint: AT&T, Verizon Wireless, Sprint Nextel, and T-Mobile. *See generally Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Fourteenth Report, WT Docket No. 09-66, FCC 10-81, ¶ 27 (May 20, 2010).

are able to internally subsidize their rural networks and have the economies of scale to provide 3G services and beyond without seeking federal subsidies.

Auctions should be designed with an estimate of the costs needed to provide broadband services. The FCC should establish a cost model to determine a "floor" for support levels that recognizes genuine high-costs in service of the public interest, rather than simply rewarding a carrier willing to provide cut rate service to rural consumers.

The FCC, in designing its auction mechanism, should utilize small geographic areas, such as counties, to ensure that service is targeted to the entirety of each license area.[35] Large auction areas will simply favor large carriers and will likely result in genuinely unserved areas remaining unserved as the auction winner concentrates solely on serving the more profitable high cost areas. By using counties, the FCC will increase the likelihood that all portions of auctioned areas actually receive service from carriers that are willing to serve them.

The FCC should consider a full range of potential public benefit factors when awarding CAF support, rather than just awarding support to the lowest cost provider. To do otherwise would violate the Act's mandate that consumers in rural areas have access to services and rates "reasonably comparable" to those available to consumers in urban areas.[36] In some areas such as Tribal regions, Alaskan Native areas and rural areas served by Tier IV carriers, it makes sense to

[35] While the FCC's license areas have varied over the years, one common denominator of all license areas is that they are made up of counties. Cellular licenses are composed of Rural Service Areas (RSAs) and Metropolitan Statistical Areas (MSAs), each of which are generally defined as Cellular Market Areas (CMAs). Broadband PCS licenses are divided into Major Trading Areas (MTAs) and Basic Trading Areas (BTAs). AWS licenses are composed of CMAs, Economic Areas (EAs) and Regional Economic Area Groupings (REAGs). 700 MHz Band licenses are composed of CMAs, REAGs, EAs and Major Economic Areas (MEAs). BTAs, MTAs, CMAs, EAs, REAGs, and MEAs each contain one or more of the 3,143 counties, boroughs or parishes in the United States.

[36] 47 U.S.C. § 254(b)(3).

award funding to the existing carrier based on actual costs or an industry-approved cost model because of the difficulty of serving these areas. Special consideration should be given to carriers that have already shown a commitment to provide service in rural, hard to serve areas. By incorporating in any reverse auction the additional elements discussed below, the FCC will ensure that the most qualified carrier receives support.

A. There Should Be Minimum Eligibility Requirements for the Receipt of Support.

RTG supports the establishment of minimum eligibility requirements for carriers seeking support. Specifically, RTG proposes that a carrier seeking support must (1) be designated as an ETC pursuant to Section 214(e) of the Act in the areas it seeks to serve; (2) have access to spectrum that is capable of supporting advanced services in the areas it seeks to serve; (3) certify that it is both financially and technically capable of providing advanced services in the areas it seeks to serve; and (4) qualify as a Tier II, Tier III or Tier IV carrier.[37] A two-stage application process, in which carriers first submit a short-form verifying they meet all minimum eligibility requirements, will ensure that carriers are qualified before participating in the auction.

Restricting support to ETCs is consistent with the Act and will ensure that support will be distributed only to carriers that have demonstrated a commitment to serving high-cost areas. Carriers currently holding a spectrum license should be deemed eligible for support. Carriers that have a long-term spectrum lease of at least five years should also be deemed eligible. As noted above, Tier I carriers should not be eligible for CAF support. Tier I carriers already serve 90

[37] Tier IV carriers serve "rural areas" and have less than 100,000 subscribers. The USDA's Rural Utilities Service has defined a rural area as any area outside of a city, town, or incorporated area that has a population of no more than 20,000 inhabitants provided that it is not in an urbanized area that is contiguous and adjacent to a city or town with a population of 50,000 inhabitants. See 76 Fed. Reg. 13770, 13778 (Mar. 14, 2011) (proposing amendments to RUS regulation of the Rural Broadband Access Loan and Loan Guarantee Program).

percent of the United States. These carriers can internally subsidize the cost of reaching rural areas without support should they so choose. They have chosen not to do so. It would also be contrary to the public interest for large carriers that gave up support in order to merge and become even larger to now be able to reclaim such support through the new CAF mechanism. Consumers should have a choice in wireless providers beyond those carriers comprising an ever-shrinking Tier I tier.

B. The FCC Should Use Bidding Credits in any Reverse Auctions.

The Commission should employ a "qualitative carrier eligibility" evaluation process that would award "bidding credits" to carriers that meet certain public interest objectives associated with delivering mobile broadband to unserved markets. Specifically, as part of any project selection or reverse auction process, a carrier's formal bid would be augmented to reflect bidding credits earned for meeting additional stipulations that are deemed in the public interest.[38] These bidding credits would be used to lower a carrier's bid even though the carrier's actual funding may be higher. In order to initiate and maintain economic development in rural areas, the Commission should grant carriers bidding credits that would be used to lower their bid amounts for meeting specific criteria, including:

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[38] The FCC is familiar with the concept of bidding credits, having utilized them in the majority of its spectrum auctions conducted since 1995. *See* 47 U.S.C. § 309(j)(4)(D) ("In prescribing regulations pursuant to paragraph (3), the Commission shall – ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences and other procedures."); *In the Matter of FCC Report to Congress on Spectrum Auctions*, Report, WT Docket No. 97-150, FCC 97-353 (released October 9, 1997) ("Congress directed the Commission to give small businesses, rural telephone companies, and businesses owned by members of minority groups and women the chance to participate in the provision of spectrum-based services. This mandate furthers Congressional objectives to expand economic opportunity, promote competition, and facilitate the development and delivery of new and improved telecommunications services to the public.").

- Small Business. Bidding credits should be awarded to carriers that are small businesses. For example, businesses with fewer than 100 employees would receive a larger bidding credit (*e.g.,* five percent) than businesses with 100-500 employees and businesses with over 500 employees would receive no credits.
- Job Creation. Additional bidding credits should be awarded to a carrier that qualifies as a small business if new jobs are projected to be created as a result of providing the advanced wireless services.
- Rural Subscriber Coverage. Bidding credits should be awarded to carriers already providing mobile wireless service to progressively more rural communities, with the size of the credit increasing with the proportion of rural coverage area (*e.g.*, 100% rural receives the largest credit, 75-99% rural receives the next largest credit, 51-74% rural receives the next largest credit, etc.).
- Rural Service Dedication Status. Bidding credits should be awarded to carriers for a history of offering telecommunications services to rural markets, with the size of the credit increasing with the number of years of service (*e.g*., five or more years, five percent credit; ten or more years, ten percent credit; 15 or more years, 15 percent credit; 20 or more years, 20 percent credit; capped at 20 percent).[39] Such credits will reward carriers that have already made a long-term commitment to serving some of the most high-cost areas of the nation. Further, such credits will allow small, rural carriers to outbid better-financed carriers who have not previously made a commitment with their own resources and have no "skin in the game." The longer period of time a carrier has served an area the more credits it

[39] For example, a carrier that has served a specific rural region for ten or more years would get a ten percent "credit" on its bid. Thus, if a carrier providing service for ten years or more bids $100,000 for a specific area, the FCC should consider that a "lower" $90,000 bid.

should be awarded because this demonstrates a long-term commitment to ensuring the economic viability and development of the rural area.

While the FCC should also institute a reasonable "cap" on such bidding credits, their implementation would recognize the importance of rural economic development.

C. Satellite Providers Should Not Receive Support.

RTG supports the FCC's proposal to prohibit satellite providers from receiving any direct support from the CAF.[40] The FCC suggests allowing recipients of CAF support to partner with satellite broadband providers to help fill in any gaps in their coverage area. Recognizing that some insular areas like large portions of Alaska utilize satellite networks as their only means to connect to the greater Public Switched Telephone Network, RTG supports the ability of a CAF recipient to receive funding for the use of a satellite network in an insular area. However, such funding should flow through the rural terrestrial carrier and not directly to the satellite provider.

VII. The FCC Should Not Base Funding Criteria for Carriers on the Activities of States.

The FCC asks whether it "should limit eligibility for CAF support in this first phase to [carriers in] states that have engaged in access charge reform and/or prioritize support to [carriers in] states that have established high-cost universal service or other broadband support mechanisms."[41] The FCC should not take either of these actions. Carriers, and more importantly rural citizens, should not be penalized for actions that a certain state did or did not take. Supporting reasonable benchmarks is one thing, but penalizing rural citizens for the actions of their state government is counterproductive to the public interest goals of this proceeding.

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[40] USF NPRM at ¶ 424.

[41] *Id*. at ¶ 270.

VIII. The Long-Term Framework of the CAF Must Provide Specific, Predictable, and Sufficient Support.

The FCC's end goal for comprehensive USF reform is to distribute all ongoing support through the CAF, while keeping the size of the new fund equal to the level of the high-cost fund in 2010.[42] The FCC envisions the CAF replacing all explicit support as well as all implicit subsidies from intercarrier compensation rates, meaning all support for carriers operating in high-cost areas would come from the CAF.[43] The FCC lays out a few different approaches to implementing its long-term vision for support, but instead of proposing specific, predictable, and sufficient mechanisms, the FCC leaves details for all of its proposals vague. Whichever direction the CAF takes, the Commission must ensure that it is based on the universal service principles found in Section 254(b) of the Act.

A. Under the Long-Term Framework of the Commission's CAF, Wireless Services Must be Supported.

The FCC's National Broadband Plan ("NBP") suggested supporting one provider per area—either fixed or mobile.[44] In the USF NPRM, the Commission has correctly stepped back from this approach by seeking comment on providing support to both fixed and mobile networks under the CAF, rather than funding only one carrier in any given area. The FCC should take all possible action to provide support to wireless carriers under the CAF. As Chairman Genachowski correctly notes, "[N]o sector now holds more promise for opportunity, for economic growth, for

[42] *Id.* at ¶ 414.

[43] *Id.* at ¶ 400.

[44] FCC, Omnibus Broadband Initiative, Connecting America: The National Broadband Plan, Recommendation 8.2, p.145 (2010) ("NBP").

improvements to our quality of life, and for our global competitiveness [than mobile broadband]."[45]

The FCC should distribute CAF support for one fixed and at least one mobile provider per area, provided that, pursuant to the Act, such recipients are eligible *telecommunications* carriers. A majority of wireline USF recipients support this position. In the NPRM, the FCC notes that "several associations representing small rural carriers [advocate providing CAF support to] one fixed and one mobile provider in each geographic area."[46] To ensure current and future wireless networks remain sustainable, CAF support must be distributed to wireless carriers. Mobile communications and wireless broadband are very important to all Americans, but for businesses, they are a necessity. Networks that are built using Phase I CAF support will require permanent, ongoing support, as will projects developed under the FCC's proposed Mobility Fund.

B. Long-Term CAF Support Should be Based on Wireless Carriers' Actual Costs.

The Commission should use actual costs for the determination of high-cost support as it works to phase-down current high-cost CETC support to be replaced with CAF-based support. Support for CETCs is currently based on the identical support rule which provides USF funding that mirrors the support given to the incumbent wireline carrier in the same area but subject to the interim cap rule. As one of its near-term reforms, the FCC proposes to eliminate the identical support rule. The logical replacement for the identical support rule is a rule requiring actual cost-based support. Wireless ETCs should be able to receive support equal to their own actual costs.

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[45] Julius Genachowski, FCC Chairman, Remarks as Prepared for Delivery at CTIA Wireless 2011, p. 4 (Mar. 22, 2011) ("Genachowski CTIA Remarks").

[46] USF NPRM at ¶ 403 (*citing* Letter from Glenn Brown, Rural Associations, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 96-45, 01-92, 99-68, 80-286, WC Docket Nos. 06-122, 05-337, 04-36, Attach. (filed Nov. 15, 2010)).

IX. Infrastructure Sharing Must be Reasonable.

The FCC asks whether a mobile wireless provider that receives CAF support should be required to share infrastructure, such as cell towers, with other non-supported wireless providers. Any carrier receiving CAF support should be required to make its entire network available for other carriers to roam on during the time CAF support is received for any portion of its mobile network. If a wireless carrier receives federal support, it is in the public interest for it to make that network accessible to all Americans through mandatory roaming agreements. If wireless CETCs that receive CAF support are required to share certain infrastructure, owners must be allowed to "reserve" a reasonable amount of space on towers and in buildings for their own future plans and charge reasonable fees for operating expenses, such as power and maintenance.

Additionally, any carrier receiving CAF support should be required to comply with the rules adopted in the FCC's recent Data Roaming Report and Order[47] regardless of whether those rules are subsequently eliminated or modified on appeal.

X. Unsubsidized Competition Does Not Negate the Need for Ongoing Support.

The FCC seeks comment on how the presence of unsubsidized competition should be factored into its reform proposals. Specifically, the FCC questions whether any funding is appropriate in an unserved area if high-quality voice service and broadband Internet access services are being offered by a provider without universal service support.[48] This question shows a basic misunderstanding of how communications networks in rural, sparsely populated areas are built, maintained and financed. Most rural networks can be characterized by the 80/20 rule—80 percent of a carrier's customers utilize 20 percent of the network. This leaves 20 percent of the

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[47] *In the Matter of Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers and Other Providers of Mobile Data* Services, Second Report and Order, WT Docket No. 05-265, FCC 11-52 (rel. April 7, 2011).

[48] USF NPRM at ¶ 391.

customer base to support 80 percent of the network. To deny funding where broadband is already offered by a provider without universal service support would have a detrimental effect on rural networks and any suggestion that the Commission do so should be rejected. Even in areas of the country where there may be facilities-based competition, universal service support is needed to ensure that service will be made available to *all* customers requesting service.

XI. The Commission Must Expand the Base of Contributors to the CAF.

The National Broadband Plan recognizes that communications services and technologies are converging, and the nation's communications system will soon be a broadband network which provides multiple IP-based services, including voice, data and video.[49] The Commission's USF NPRM proposes modifying the USF to support broadband networks. However, the Commission's USF NRPM does not consider how the FCC will shift the contribution methodology for its proposed CAF. If the FCC goes forward with adopting its proposals, much of the funding that supports the country's communications network will disappear. The USF will require other sources of support – specifically, contributions from broadband providers. The Communications Act provides that "[e]very telecommunications carrier that provides interstate telecommunications services [must] contribute, on an equitable and nondiscriminatory basis, to the…mechanisms…[that] preserve and advance universal service."[50] The current contribution methodology is not only unsustainable, but also outdated, and should be reformed to include a broader base of contributors. Those that benefit from universal service should support their fair share of the costs associated with universal service. Reforming high-cost support, while ignoring the contribution mechanism, only solves one side of the equation. If broadband services are to be funded, it is only natural that broadband users must be asked to support this effort.

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[49] NBP, Section 4.5 Transition from a Circuit Switched Network, p. 59 (2010).

[50] 47 U.S.C. § 254(d).

XII. Conclusion

The unavailability of broadband remains a major problem for too many Americans. The monumental proposals put forth by the FCC in the USF NPRM are aimed at helping to correct this problem. RTG urges the Commission to take into consideration the successes that wireless providers have achieved by utilizing USF support under the current system. The current system is extremely complex and deeply entrenched. The FCC should consider industry input and alternative proposals in a deliberate and thoughtful manner.

Wireless can play a major role in winning the country's broadband future. RTG urges the Commission to make decisions that are technology neutral. The FCC should support one fixed and at least one wireless carrier in every area. The Commission should fund only ETCs -- those carriers who have subjected themselves to regulatory scrutiny and are willing to be held accountable after receiving support. CAF support should be targeted to those carriers who have historically served unserved rural areas, not to nationwide carriers that have never demonstrated a commitment to serving genuine high-cost areas.

Respectfully submitted,

RURAL TELECOMMUNICATIONS GROUP, INC.

By: */s/ Caressa D. Bennet*

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January 11, 2008

Via Electronic Delivery

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Panhandle Telecommunication Systems, Inc.
Notice of *Ex Parte* Presentation
CC Docket No. 96-45

Dear Ms. Dortch:

Submitted on behalf of Panhandle Telecommunication Systems, Inc, is the attached high cost universal service proposal ("Panhandle Proposal") in the above-mentioned docket. If you have any questions regarding the Panhandle Proposal, please communicate directly with the undersigned.

Respectfully submitted,

/s/

Kenneth C. Johnson

Attachment

PANHANDLE TELECOMMUNICATION SYSTEMS, INC.
An Affiliate of PANHANDLE TELEPHONE COOPERATIVE, INC.

RON STRECKER
Chief Executive Officer

Federal USF Distribution Proposal for Multiple ETCs
CC Docket No. 96-45

Developed by Ron Strecker
CEO of Panhandle Telecommunication Systems, Inc.

One of the main objectives of both the Federal Communications Commission (FCC or Commission) and Congress has been to control the rapid growth of the Universal Service Fund (USF). Controlling a ballooning fund can be accomplished in many ways and the FCC has been inundated with numerous proposals ranging from reverse auctions to funding caps. However, reigning in the high cost fund must be accomplished without abandoning long-held universal service principles developed by Congress in the Telecommunications Act of 1996 (Act) and the FCC and the Federal-State Joint Board (Joint Board) on Universal Service in their implementation of the Act.

In anticipation of a rulemaking in the near future on the various USF proposals and on the Joint Board's Recommended Decision, Panhandle Telecommunications Systems, Inc. (Panhandle)[1] submits its own proposal for consideration. Panhandle's proposal reflects its long history of providing crucial communications services in high cost areas. Panhandle requests that the Commission seek comment on the "Panhandle Proposal" and believes that the concepts in its proposal can lead to a more targeted and efficiently managed high cost fund.

[1] Panhandle Telecommunication Systems, Inc. (Panhandle) is a wholly-owned subsidiary of Panhandle Telephone Cooperative, Inc. (PTCI). PTCI is an incumbent local exchange carrier (ILEC) rural telephone company with approximately 15,400 access lines and receives high cost universal service support for its operations in Oklahoma, Texas, and New Mexico. Panhandle is a provider of commercial mobile radio service (CMRS) in Oklahoma and Kansas, and competitive local exchange carrier (CLEC) service in Texas. Panhandle provides mobile service to less than 10,000 customers and has been designated an eligible telecommunications carrier (ETC), receiving high cost support. As a CLEC, Panhandle provides service to less than 4,000 access lines. Panhandle also provides high-speed Internet services to over 7,000 customers and dial-up service to approximately 800 customers. The multiple business operated by Panhandle and its affiliates in high cost regions give it a unique and thoroughly rural perspective on universal service. Without adequate high cost support, many customers served by Panhandle could be without vital telecommunications services.

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Panhandle's Proposal is intended as an alternative to drastic and untested "reverse" auctions and irresponsible requests that the high cost fund be eliminated in its entirety. Panhandle's Proposal eliminates the identical support and bases high cost support on a carrier's own costs, as well as establishing company caps. The elimination of the identical support rule reflects industry consensus concerning the unnecessary "windfall" that such support can provide in certain instances. The Panhandle Proposal allows for multiple wireless carriers in the same region to receive support on a targeted basis. However, Panhandle's Proposal contains an economic incentive for wireless carriers to use another carrier's network in areas where additional networks are economically infeasible. What follows are principles and specifics concerning the Panhandle Proposal.

Panhandle Proposal for Wireless CETCs:

The 1996 Act establishes the principle that consumers in all regions of the nation, including rural and high cost areas, should have access to telecommunications and information services at comparable rates enjoyed by consumers in urban areas.[2] Nowhere in the Act does Congress indicate that universal service applies only to certain types of telecommunications carriers and excludes others. However, Panhandle believes that the receipt of high cost universal service comes with an obligation, both ethical and fiscal, to use high cost support for the express provision of high cost universal service. Therefore, wireless carriers who directly or indirectly benefit from high cost support used to build out wireless networks in rural regions where multiple networks are cost prohibitive should be required to provide roaming on a non-discriminatory basis to other wireless carriers in their area and their customers. With the receipt of high cost support for wireless build out comes the obligation to share the high cost network with *all* customers who need access to the network.

Roaming Obligation

Under the Panhandle Proposal, wireless competitive eligible telecommunications carriers (CETC) receiving high cost support would be required to make their network available to the other wireless carriers licensed to serve in the same eligible telecommunications carrier (ETC) markets at a reduced rate. This would permit wireless carriers licensed to serve the same area to indirectly benefit from federal high cost support and better serve their customers residing in that market. This reduced rate would generally be lower than the standard roaming rates charged to wireless carriers who do not hold licenses in the ETC area and whose customers reside outside the ETC area and roam in the licensed area. The reduced roaming rate would be based on the national average cost to produce a wireless minute, and is referred to as the local wholesale rate. The local wholesale rate would be based on wireless carrier costs. The local wholesale rate would also be used to determine high cost support for wireless ETCs, as discussed below.

[2] *See* 47 U.S.C. § 254(b)(3).

Calculation of Costs, Rates, and Support

To determine wireless carrier costs for the receipt of high cost support, Panhandle suggest a formula be developed to allow wireless carriers to calculate their own costs based on a national average cost without resorting to the highly-regulated and burdensome cost accounting methods currently required of ILECs.

Specifically, on an annual basis, all wireless carriers would report to the FCC, or alternatively the National Exchange Carrier Association (NECA) or the Universal Service Administrative Company, the cost of maintaining their respective network, and the costs associated with completing a call. Included in these costs would be towers, antennas, switches, buildings, backhaul, spectrum, clearinghouses, the net cost of call termination, and network maintenance. Also included would be an approved rate of return on the investment. Excluded from these costs would be administrative costs, marketing expenses, and customer handset subsidies. Carriers would also report on an annual basis the total number of minutes generated by their networks. Many of these costs are available from CTIA's annual survey which provides capital expenses, average minutes, and revenue per customer. Wireless carriers and regulators would thus be able to compare a wireless carrier's individual costs with a national average cost.

National Average Cost per Minute

The total cost of all wireless networks would be divided by the number of minutes on all networks in order to come up with a national average cost per minute. An individual carrier would calculate its own cost per minute by dividing its costs by number of minutes. Roaming minutes would count on both national and individual calculations of minutes.

In order to determine an individual carrier's support, a multiplier, based on the company's size, would be applied to the national average cost per minute. This multiplier could be adjusted to control the size of the fund and to reflect any unforeseen wireless cost trends. The following multipliers are intended for discussion purposes only:

i. 1.50 for Tier I carriers
ii. 1.35 for Tier II carriers
iii. 1.15 for Tier III carriers

Applying this multiplier to the average national cost per minute would yield a figure used to determine the local wholesale rate discussed above. The local wholesale rate would also be used to determine the rate at which carriers would begin receiving high cost support. For example, if the national average cost per minute is 2 cents, after applying the 1.15 multiplier for Tier III carriers, the local wholesale rate would be 2.3 cents per minute. This would be the wholesale rate the Tier III carrier would be obliged to charge for the provision of roaming to the customers of licensed wireless carriers in its ETC area.

High Cost Support

To determine high cost support using the local wholesale rate, the individual carrier simply compares its cost per minute to the local wholesale rate for its Tier. For example, if a Tier III carrier's cost is 10 cents per minute and the local wholesale rate, as calculated above, is 2.3 cents per minute, high cost support for that carrier would be 7.7 cents per minute. As minutes grow, one would expect the cost per minute of an individual carrier to decrease.

Tier I wireless carriers have massive economies of scale and purchasing power in comparison to Tier II and especially Tier III carriers. By using a lower multiplier for Tier II and Tier III carriers, large carriers' economies of scale and purchasing power are taken into account.

Cap on Support

The Panhandle Proposal includes a high cost company cap of ten times the national average cost per minute. This will help ensure that networks not supported by sound business plans are discouraged. For example, if the national average cost per minute is 2 cents as in the examples above, if a wireless CETC's costs are 25 cents per minute, it may be unwise to build out such a costly network since it will only be supported up to 20 cents per minute. However, recognizing that some networks may in fact have legitimate high costs above and beyond the cap, the FCC should allow a waiver of the cap if it is in the public interest to do so.

Panhandle Proposal for Wireline CETCs:

Wireline CETCs receiving high cost support should be required to perform a cost study identical to the cost study required of rate-of-return (ROR) ILECs. High cost support received by a wireline CETC shall be based on actual cost, *not* the identical support rule. Since many rural CLECs are accustomed to preparing cost studies in their affiliated ILEC areas, they should be willing to prepare a similar study for their CLEC areas as well. However, high cost support for CLEC ETCs should be capped.

Cap on Wireline CETC Support

Individual company caps on high cost support for wireline CETCs will be based on state high cost support averages per line received by incumbent rural telephone companies in the state. Panhandle proposes a cap of one and one half (1.5) times a state's rural telephone companies'[3] high cost support average per line. This will help discourage

[3] 47 U.S.C. §153(37).

economically infeasible networks. However, recognizing that some networks, especially in extremely high cost yet unserved areas, are deserving of support, a waiver process should be allowed

Conclusion

Panhandle's intent in introducing the Panhandle Proposal into the fray of USF proposals is to provide the Commission with a decidedly rural perspective that is neither a "rural telephone company" plan nor what would normally be characterized as a "wireless" plan. Panhandle hopes that as the Commission moves forward on long term universal service reform, it can focus on the high cost concerns of small, rural telecommunications carriers like the Panhandle companies that are on the front lines in their provision of high cost universal service.