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

To: The Commission

REPLY COMMENTS OF THE SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION

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Table of Contents

Executive Summary iii

I. Introduction 2

II. The *NPRM* Universal Service Proposals Would Have Substantial Adverse Effects 4

III. The *NPRM* Intercarrier Compensation Proposals Would Also Have Very Substantial Negative Impacts and are Unlawful 7

A. The Commission Cannot Legally Unify ICC Rates under §§251 and 252 7

B. The Commission's Intercarrier Compensation Proposals Would Substantially Reduce Total South Dakota RLEC Revenues 9

IV. All ETCs Should Meet Carrier of Last Resort Obligations 11

V. The Commission Cannot Distribute Support to Non-Common Carriers 12

VI. The Commission Does Not Have Unconstrained Authority to Define Service Areas ... 14

VII. Conclusion 15

Executive Summary

Comments in this docket have emphatically shown that Federal universal service support and intercarrier compensation revenues have long been critical in enabling the rural incumbent local exchange carriers ("RLECs") to make the investments necessary to deploy high-quality voice and broadband facilities. As outlined in detail in these comments, a number of the Commission's proposals are arbitrary in nature and will likely undo much of the success rural carriers have had under the current system.

The Commission's proposed changes to the High Cost Loop Support mechanism (HCLS), support for corporate operations expenses (COE), and the Local Switching Support mechanism (LSS) arbitrarily reduce the South Dakota RLEC's revenues because they are not narrowly tailored. These changes will undoubtedly limit the ability of the South Dakota RLECs to not only maintain their existing networks, but also their ability to continue with broadband build-out in their service areas. In this regard, SDTA supports the Rural Association's proposals to ease revenue reductions via a restructuring mechanism, and the imposition of COLR obligations on all recipients of federal universal service funds.

Likewise, the Commission's proposed changes to intercarrier compensation, such as the proposal to implement bill-and-keep for all traffic exchange, also have the potential to significantly reduce the current revenues of the South Dakota RLECs, further impacting the ability of the carriers to maintain and operate their current networks and build out broadband. Moreover, SDTA believes that the Commission does not have authority to effect such changes, as it would flatly contradict the plain language of the Telecommunications Act.

SDTA also agrees with and supports the Rural Associations' comments with respect to carrier of last resort (COLR) obligations and urges the Commission to impose well defined COLR obligations on all recipients of federal universal service support. The success of rural ILECs in universally extending voice services is in large part a consequence of serious commitments to meet COLR obligations; a strong emphasis on COLR is also essential to the success of broadband universal service policies.

SDTA supports commenters arguing that the Commission has neither the authority nor the jurisdiction to distribute universal service funds to non-common carriers. The plain language of the Telecommunications Act unequivocally requires all recipients of universal service funding to be duly designated eligible telecommunications carriers and, therefore, a common carriers. As a congressional limitation on the Commission's ability to distribute universal service fund, the Commission may not forbear from enforcing this requirement.

Finally, SDTA agrees with commenters stating that the Commission does not have the authority to define service areas and, therefore, cannot substitute census blocks (or any other delineation) for determining the distribution of universal service funds. And further, regardless of issues related to the Commission's authority, SDTA respectfully submits that census blocks are ill suited to the Commission's needs.

For these reasons, SDTA urges the Commission to reject the proposals discussed herein.

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REPLY COMMENTS OF THE
SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION

The South Dakota Telecommunications Association (SDTA), by its attorneys, hereby files reply comments in connection with the Commission's proposals to reform universal service and intercarrier compensation as described in the above-captioned Notice of Proposed Rulemaking (*NPRM*) released on February 9, 2011. SDTA concurred in and fully supports the comments filed in response to the *NPRM* by the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Telecommunications Companies, and Western Telecommunications Alliance

(hereinafter referred to as the "Rural Associations").[1] Through these reply comments, SDTA provides additional information specific to its rural incumbent local exchange carrier members further demonstrating the harmful impact and arbitrary nature of the Commission's proposals to revise the universal service and intercarrier compensation mechanisms on such carriers and their customers. SDTA also provides information demonstrating the error of a number of the assumptions made by the Commission and discusses errors in the Commission's analysis of its legal authority.

I. Introduction

SDTA's membership includes all of South Dakota's rural incumbent local exchange carriers (RLECs).[2] The membership includes 12 companies that are rural telephone cooperatives, 5 local exchange carriers that are owned by and affiliated with these cooperatives, 3 municipally owned telephone companies, 1 tribally owned telecommunications company, and 4 privately held rural telephone companies which are either locally based or which have local facilities in the State. The service areas of the RLECs cover approximately 80% of the State's geographic area consisting of an area of approximately 62,162 square miles. The average customer density throughout the RLECs' service areas is approximately 2.3 customers per square mile. The smallest incorporated town, the town of Hillsview, and the largest city, the city of Brookings, served by the RLECs, have populations of 3 and 18,504 residents, respectively.

As of the fourth quarter of 2010, SDTA's members served 134,365 access lines.[3] As SDTA noted in earlier comments filed with the Commission responding to the initial Notice

[1] *Comments of the Rural Associations*, filed April 18, 2011.
[2] A listing of all of the current SDTA members is filed herewith as "Attachment A".
[3] This access line count number is taken from the USAC document "High Cost Loop Support Projected by State by Study Area Fourth Quarter 2010" and includes all study areas served by SDTA member incumbent local exchange carriers.

issued by the Commission related to the "National Broadband Plan," SDTA's members invested over $133,196,000 in capital expenditures in 2008 and 2009 and were projected to invest over the 2010-2011 two-year time frame approximately $91,966,000. In 2009, the RLECs collectively had over $29,100,000 in annual loan principal and interest payments.[4] In most cases, the RLECs were the first companies to provide basic telephone services to the rural communities that they serve, and they have existed in these areas as the only "Carrier of Last Resort" (COLR) for fifty (50) years or more. In addition to basic telephone services, all of the RLECs also provide access to broadband service to almost 100% of their customers via a variety of broadband delivery technologies, including Digital Subscriber Line (DSL), Cable Modems, Fiber-to-the-Premises, and wireless technologies. Deployment of DSL, one of the primary broadband delivery technologies, started in the late 1990's in South Dakota and became widespread by the early 2000's. Since that time, the RLECs have deployed broadband facilities steadily, and now almost 100% of customers within their service areas have broadband Internet access.

Federal universal service support and intercarrier compensation revenues have been critical in enabling the RLECs to make the necessary investment in facilities to deploy high quality voice and broadband services. Presently, the RLECs members of SDTA receive, on average, approximately 24 percent of their total regulated revenues from federal universal service support and 28 percent of total regulated revenues from intercarrier compensation (including special access).[5] The RLECs' voice and broadband networks would not exist as they

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[4] These payments are for investment in plant and network upgrades from years prior to 2010. As of year-end 2009, the long term debt of the SDTA member companies included approximately $269 million in RUS or Federal Finance Bank loans and approximately $70 million in other bank loans. At EOY 2009, SDTA members "Total Plant in Service" exceeded $1.14 billion, including plant attributable to both regulated and non-regulated service operations.

[5] It should be noted that these percentages are based on both 2009 and 2010 data. The intercarrier compensation percentage, specifically, is based on a comparison of only billed switched and billed special access revenues to total

do today without the assistance that has been provided through the federal universal service support mechanisms and the revenues provided through intercarrier compensation payments. The Commission's proposed universal service and intercarrier compensation changes do not fairly take into account the actual costs that are incurred by rural carriers to meet universal service and COLR obligations and to deploy broadband services, and arbitrarily reduce both universal service support amounts and intercarrier compensation rates.

II. The *NPRM* Universal Service Proposals Would Have Substantial Adverse Effects

As shown herein, the Commission's proposed changes to high cost loop support would reduce, arbitrarily and significantly, the revenues of the South Dakota RLECs, inhibiting the ability of many of the carriers to maintain and operate their current networks and expand broadband facilities. Further, the proposals to eliminate all recovery for corporate operating expenses (COE) and eliminate local switching support (LSS) seem particularly biased against the operations of RLECs and cannot be justified. Accordingly, the Commission's proposals should not be adopted.

In the *NPRM*, the Commission proposes to reduce the reimbursement percentage for high cost loop support (HCLS) to 55% and 65% for all carriers with fewer than 200,000 lines and loop cost at 115-150% or 150% and above the national average, respectively. The Commission also proposes to entirely eliminate COE recovery within both the HCLS and the Interstate Common Line Support (ICLS) and to also completely eliminate the support distributed through the LSS and Safety Net Additive mechanisms. The consequences, if all of these proposed

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regulated revenues (for 23 of SDTA's 25 member companies, representing 95 percent of total SDTA member company access lines or working loops). If the special access revenues are removed and only billed switched access and reciprocal compensation revenues are included, the intercarrier compensation percentage in relation to total regulated revenues is 18 percent.

changes in high cost support were actually implemented by the Commission would be very harsh for the South Dakota RLECs. The high-cost universal service support currently received by the companies would, on average, be reduced by about 20 percent, resulting in a per access line, per month support loss of $10.53.[6] The revenue impacts for some individual carriers would be much greater. At the present time, there is no state universal service fund in South Dakota and, certainly, universal service in the state will be jeopardized if the South Dakota RLECs are expected to rely entirely on local rate increases to cover losses of this magnitude. Contrary to the stated goals in the Commission's *NPRM* centered around making "affordable broadband available to all Americans, the proposed changes in the high cost funding mechanisms for rural carriers would undoubtedly have the opposite effect. It would result in substantial end user rate increases for basic local services and broadband and would inhibit the ability of the RLECs to maintain and operate their current networks, let alone build out further broadband facilities.

The Commission's proposal to eliminate all corporate operating expense (COE) recovery through the high cost funds also is arbitrary and unfairly penalizes small rural carriers for being small. Contrary to its finding that corporate operating expenses "do not appear to result from costs inherent in providing telecommunications services, but rather may result from managerial priorities and discretionary spending,"[7] a large part of corporate operating expenses result from federal regulations such as various reports required by the Commission, tariff filings, record maintenance requirements, interconnection negotiations and agreements and formal and informal complaints. To comply with all of these requirements, the RLECs must engage employees and

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[6] These numbers are based on an analysis of the *NPRM* USF reform proposal impacts on 11 rural cost company study areas in South Dakota, representing approximately 81 percent of the rural cost company working loops in South Dakota (73,890). For these rural ILECs, these proposed changes, collectively, would result in a reduction in total federal high cost funding of $9,344,450 (based on 2009 baseline data and total 2009 high cost support amounts, a reduction from an annual amount of $44,835,731 to $35,491,281).

[7] *NPRM* at ¶197.

managerial staff. In addition, because of their size, the RLECs must engage outside accountants, engineers and attorneys to assist in meeting these requirements. The associated expense of these in-house employees and outside consultants and counsel is included in COE.

Notably, small carriers are subject to the same regulations and regulatory requirements as larger carriers and, to a large extent, the cost of compliance is not dependent on the number of lines served. Accordingly, not only is there no justification to eliminate all support for COE, doing so adversely impacts smaller companies to a larger extent because they have fewer customers and access lines over which to spread these costs.

With respect to LSS, the Commission proposes to eliminate this support because, "the size-based eligibility for LSS may be inappropriate" in an IP-based, soft switch, environment. [8] However, as shown in the Rural Associations' comments, soft switches can cost from $400,000 to $600,000, a significant expense for a small carrier with relatively few access lines. In addition, the Commission's claim that some rural carriers may not purchase soft switches in order to maintain LSS is not supported by the record. On the contrary, the South Dakota RLECs are not purchasing any new circuit switches, but rather, in recent years, the RLECs have purchased soft switches when new switch investment was required.

As shown, the Commission's proposed changes to universal service support are arbitrary and they unfairly target small carriers based on their size. Therefore, the Commission's proposals should not be adopted. In the alternative, the Rural Associations' comments propose targeted changes to universal service mechanisms that will promote the further deployment of broadband facilities and services without negatively impacting the facilities and services already deployed by rural ILECs.

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[8] *Id.* at ¶187.

III. The *NPRM* Intercarrier Compensation Proposals Would Also Have Very Substantial Negative Impacts and are Unlawful

Commission's proposed changes to intercarrier compensation also have the potential to significantly reduce the current revenues of the South Dakota RLECs, impacting the ability of the carriers to maintain and operate their current networks and build out further broadband facilities. In addition, SDTA further believes that various Commission proposals exceed its jurisdiction and are unlawful.

A. The Commission Cannot Legally Unify ICC Rates under §§251 and 252

The Commission's authority, at least with regard to intrastate traffic, is limited to designing a pricing methodology that guides state commission judgments. [9] In the *NPRM*, the Commission contends that it has the authority to adopt a pricing methodology with regard to reciprocal compensation traffic and intrastate access charges.[10] SDTA agrees with the Rural Association's assertion that such authority belongs to the state commissions, and is not enveloped within the Commission's authority to set unified intercarrier compensation rates under §§251(b)(5) and 252(d)(2).

The Commission's interpretation of the Supreme Court's ruling in *AT&T v. Iowa Utilities Board*[11] is over-reaching and off-base. In the *NPRM*, the Commission states: "the Supreme Court made it clear in the *Iowa Utilities Board* decision that "the Commission has jurisdiction to design a pricing methodology" under section 252(d)."[12] This is not, however, an unqualified right. The Supreme Court's actual finding contains a significant qualification, specifically that, "the [FCC] has jurisdiction to design a pricing methodology" to "*guide the state-commission*

[9] 47 USC 252(d)(2); 252(c)(2)
[10] *NPRM* at ¶516.
[11] 525 U.S. 366 (1999)(*"Iowa Utilities Board"*).
[12] *NPRM* at ¶516.

judgments."[13] Contrary to this limitation, the Commission is essentially proposing to "guide" the state commissions to a specific outcome.

As stated above, SDTA agrees with the Rural Associations, who correctly point out that the Commission cannot mandate a specific rate for either intrastate access or reciprocal compensation traffic, either directly or by setting a "methodology" with a specific result in mind.[14] Indeed, the 8th Circuit has held that, "[s]etting specific prices goes beyond the [Commission's] authority to design a pricing methodology."[15]

Furthermore, any unified intercarrier compensation rate mandated by the Commission would contradict carriers' rights under §252(a)(1) to enter into voluntary negotiations without regard to the requirements of §251(b) and (c). Section 252(a)(1) states that, "an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251." Included in this right is the ability to negotiate rates of compensation. As the State Members of the Joint Board point out, "a rate cannot both be negotiated by the carrier and prescribed by a regulator."[16]

In sum, SDTA submits that a Commission-mandated unified intercarrier compensation rate would contradict the letter of the Communications Act and relevant precedent. The Commission should abandon this proposal.

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[13] *Illinois Bell Tel. Co. v. Wright*, 2003 U.S. Dist. LEXIS 20953 (N.D. Ill. Nov. 18, 2003), quoting *Iowa Utilities Board.* (Emphasis supplied.)
[14] *Comments of the Rural Associations* at p. 16, fn. 27.
[15] *Id.*
[16] *Comments of the State Members of the Joint Board* at p. 144.

B. The Commission's Intercarrier Compensation Proposals Would Substantially Reduce Total South Dakota RLEC Revenues

As previously indicated, the South Dakota RLECs obtain approximately 28 percent of their total regulated revenues from intercarrier compensation.[17] Adoption of a bill and keep mechanism, and the resulting total elimination of all intercarrier compensation, would result in an estimated revenue loss to the South Dakota RLECs, as a group, of over $37 million (approximately $37,620,084) which translates to an average per line, per month impact of $24.51.[18] Reducing access charges to a unified rate of $0.0007 also would result in an estimated revenue loss of over $37 million (approximately $37,247,577), or $24.27 per line per month, on average, for the South Dakota RLECs. The impact of such extreme rate reductions on individual RLECs in the State varies substantially. For many of the companies, the per-line, per-month impacts would be even greater.

Very clearly, the adoption of either of these proposals would have severe negative consequences for all of the RLECs in South Dakota and their rural customers. End user rates simply could not rise to levels needed to replace these revenue losses in a competitive market and, in any event, rates at such levels would obviously no longer be "reasonably comparable" to urban rates as is required under the federal universal service provisions. The revenue losses that would accompany the extreme "bill and keep" and ".0007" proposals would impact the RLECs' ability to maintain and operate their current networks and meet their existing loan commitments, and without a doubt would make it almost impossible for the carriers to continue with network upgrades and advance their broadband service offerings.

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[17] As noted earlier, this number reflects billed and not settlement revenue.

[18] These numbers are based on billed intercarrier compensation data received from 23 of SDTA's 25 member companies, representing 95 percent of total SDTA member company access lines or working loops.

As an alternative, SDTA supports the Rural Associations' proposal to allow local exchange carriers, at the direction of their state commissions, to lower their originating and terminating intrastate switched access rates to interstate rate levels, coupled with a federal restructure mechanism (RM). Recent data collected from the South Dakota RLECs indicates that the companies are charging an average, composite intrastate switched access rate of $0.122 per minute of use.[19] The average, composite interstate switched access rate charged by the same companies is $.0527 per minute of use. Accordingly, given the significant differences in these intrastate and interstate rates, a significant reduction in the intrastate switched access rates would be needed to make the rates equal. SDTA estimates the total loss in intrastate access revenues resulting from any such action would be almost $13 million annually (approximately $12,953,735), or $8.44 per line per month.[20] Again, the amount of this impact varies from RLEC to RLEC. For many of the individual RLECs, the loss in revenue would be even higher.

Because of the significant revenue losses associated with rebalancing intrastate access charges, SDTA believes that a sufficient federal revenue replacement mechanism must be part of any such rebalancing. While some parties suggest that any mandated reductions in intrastate access charges should be replaced through intrastate universal service funds, there is currently no such fund in South Dakota. This is the case, despite the fact that on a number of occasions the South Dakota RLEC industry has undertaken efforts to propose legislation and lobby the South Dakota legislature to establish a state universal service fund and through such a mechanism

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[19] Intrastate switched access rates in South Dakota are tariffed with and regulated by the South Dakota Public Utilities Commission and historically such rates have been tied to specific administrative rules for determining the costs of providing switched access services. In recent years, although intrastate switched access minutes of use have declined for SDTA member companies and as a result, for many companies, per minute costs have increased, the intrastate switched access rates have effectively been capped. No South Dakota incumbent LEC intrastate cost studies proposing increases in intrastate switched access rates have been reviewed and/or approved by the South Dakota Commission for a number of years.

[20] Data collected from 23 of the 25 SDTA members, representing approximately 95 percent of the SDTA member company access lines.

rebalance intrastate rates. In addition, it is important to note that South Dakota's low population, its relatively low statewide total access line count, and its very high cost characteristics, make it much more difficult to appropriately rebalance intrastate rates without federal assistance. Accordingly, a Restructure Mechanism that contributes to intrastate rate reductions and a transition path along the lines advocated by the Rural Associations must be adopted in conjunction with intrastate rate rebalancing, to ensure that RLECs are able to keep retail local service and broadband rates affordable and at the same time provide high quality services to their rural customers.

IV. All ETCs Should Meet Carrier of Last Resort Obligations

SDTA agrees with and supports the Rural Associations' comments with respect to carrier of last resort (COLR) obligations and urges the Commission to impose a COLR obligation on all recipients of federal universal service support. As discussed in the Rural Associations' comments, Section 214(e) of the Act establishes comprehensive COLR status and responsibilities for federal universal service recipients. Moreover, the success of rural ILECs in extending voice and broadband services to all parts of their service area is in large part, a consequence of the serious commitment to meet COLR obligations. If broadband deployment is to be expanded to unserved and underserved areas, especially those served by larger carriers, well defined COLR obligations should be applied to and enforced on all universal service recipients.

V. The Commission Cannot Distribute Support to Non-Common Carriers

SDTA supports the comments of the Rural Associations, the Blooston Rural Carriers,[21] the State Members of the Joint Board Association, and others in arguing that the Commission has neither the authority nor the jurisdiction to distribute universal service funds to non-common carriers. The language and legislative history of §254(e) and §214(e) make it plain that support may only go to eligible telecommunications carriers (ETCs). In the *NPRM*, the Commission suggests it has the authority to forbear from Sections 254(e) and 214(e), which require federal support to be distributed to eligible telecommunications carriers alone. On the contrary, Sections 254(e) and 214(e) are restrictions on the Commission, not on telecommunications carriers or services and, therefore, are not subject to forbearance. Furthermore, the Commission can only forbear from regulations whose protections are no longer necessary.

As many commenters state, the legislative history and plain language of Sections 254(e) and 214(e) unequivocally provide that only properly designated ETCs are eligible to receive Federal universal service support,[22] and that an entity designated as an ETC must be a common carrier.[23] The Commission cannot ignore the mandate of Congress, plainly stated, in these sections of the Act.

Nor may the Commission forbear from these requirements. As the *NPRM* itself recognizes, the Commission may forbear " 'from applying any regulation or provision of this Act *to a telecommunications carrier or telecommunications service, or class of telecommunications carriers or telecommunications services,*' if enforcement of a provision *is not necessary to*

[21] *Comments of the Blooston Rural Carriers*, filed April 18, 2011.
[22] *See, eg, Comments of the Blooston Rural Carriers* at p. 19.
[23] *Id. at* p. 20.

protect consumers or to ensure that telecommunications carriers' charges and practices are just and reasonable..."[24] The Commission's proposal satisfies neither requirement.

First, Section 254(e) of the Act expressly limits the Commission's authority to distribute high-cost support, restricting distribution to eligible telecommunications carriers designated under 214(e) only. That section, in turn, limits eligible telecommunications carrier designation to common carriers. It does not regulate a telecommunications carrier or service and, therefore, is not subject to forbearance under Section 10 of the Act.[25] Both the Commission and the Joint Board recognized during the initial implementation of Sections 254 and 214 that Congress had explicitly limited the Commission's ability to distribute universal service funds.[26]

Moreover, it can hardly be said that the protections Section 254 offers are no longer necessary. As the Blooston Rural Carriers point out, Congress had substantial reasons for drafting 254 and 214 in the particular way that it chose to do so, including the prevention of gaming tactics that would favor the most desirable customers and eliminate the need for a separate set of regulations for ETCs.[27] There is absolutely no support whatsoever for the notion that these concerns have somehow been eliminated since that time.

For these reasons, SDTA submits that the Commission may not forbear from statutory limitations on its own authority, especially where the protections afforded by those limitations are still applicable. The Commission should continue to distribute universal service funding in accord with Congress' clear intent by limiting it to properly designated eligible telecommunications carriers.

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[24] *NPRM* at ¶72, citing 47 USC 160(a), emphasis supplied.
[25] *Comments of the Rural Associations* at p. 81; *Comments of the Blooston Rural Carriers* at p. 18; *Comments of the State Members of the Joint Board* at p. 86.
[26] *Comments of the Blooston Rural Carriers* at p. 20, citing *In the Matter of Federal State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, released May 8, 1997, at ¶130.
[27] *Comments of the Blooston Rural Carriers* at p. 21.

VI. The Commission Does Not Have Unconstrained Authority to Define Service Areas

SDTA supports the comments of the Rural Associations and the State Members of the Joint Board in opposing the Commission's proposal to offer high-cost support for broadband deployment on bidder-defined service areas comprised of census blocks. The Commission does not have the sole authority to define or redefine service areas and, therefore, cannot on its own simply substitute census blocks (or any other delineation) for determining the distribution of universal service funds. Regardless, census blocks have already proven to be problematic, having created complications in the NTIA Broadband Mapping Program and BTOP/BIP[28] stimulus funding programs.

SDTA concurs with the Rural Associations, who point out that Congress expressly gave some power to define or redefine the service areas supported by universal service funds to the state commissions pursuant to § 214(e)(5).[29] The authority to change service areas is not exclusively within the Commission's authority under the Federal Act and in the case of areas served by rural telephone companies, the power is even further restricted by the Act. Section 214(e)(5) expressly limits the definition of service area to the study area of the relevant company, unless and until the Commission and the state commission take prescribed steps to change the definition. Furthermore, it is the United States Census Bureau, and not the Commission, that has the power to change or revise census block delineations in the future.

Moreover, census blocks have more practical issues that make them unsuitable to the Commission's purposes. One major complication is that census block boundaries do not accurately approximate actual service boundaries; for example, as the State Members of the Joint

[28] The Broadband Technology Opportunities Program and the Broadband Initiatives Program, respectively.
[29] *Comments of the Rural Associations* at p. 86.

Board point out, census block boundaries often cross exchange boundaries. [30] It is also unclear how the Commission will determine whether a census block is served or unserved, given that census blocks contain a wide variety of populations (with some two million blocks having populations of zero as of the 1990 census).[31] Further, demographic data for census blocks is currently only updated every ten years during the decennial census, which necessarily skews service provider obligations; the fact that the 2009 Broadband Stimulus Programs were conducted with census block data from 2000 created complications in determining which census blocks to apply for and how to serve them due to outdated data.

Therefore, SDTA believes that the Commission does not have the authority to change the way service areas are designated for the purposes of universal service funding. Moreover, even if the Commission did have such authority, census blocks are not an appropriate device for the Commission's purpose and should not be implemented in this regard.

VII. Conclusion

Federal universal service support and intercarrier compensation revenues have long been critical in enabling the RLECs to make the investments necessary to deploy high-quality voice and broadband facilities. As discussed herein, the Commission's reform proposals are arbitrary in nature, in some cases unlawful, and will severely adversely impact the goal of universal service.

In the alternative, SDTA supports the Rural Associations' proposals to ease revenue reductions via a federal restructuring mechanism, and impose COLR obligations on all recipients

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[30] *Comments of the State Members of the Joint Board* at p. 86.

[31] Geographic Areas Reference Manual, United States Census Bureau, Chapter 11 – Census Blocks and Block Groups, published November 1994; available online at http://www.census.gov/geo/www/GARM/Ch11GARM.pdf

of federal universal service funds. These proposals will address some of the identified issues in the industry, while preserving universal service.

For these reasons, SDTA urges the Commission to adopt the proposals contained herein and in the Rural Associations' comments.

Respectfully submitted,

THE SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION

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Dated: May 23, 2011

Attachment A

Members of the South Dakota Telecommunications Association

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Brookings Municipal Utilities dba Swiftel Communications
Cheyenne River Sioux Tribal Telephone Authority
Faith Municipal Telephone Company
Fort Randall Telephone Company
Golden West Telecommunications Cooperative
Hills Telephone Company, Inc.
Interstate Telecommunications Cooperative, Inc
James Valley Telecommunications
Kennebec Telephone Company, Inc.
Knology Community Telephone
Long Lines d/b/a Jefferson Telephone
Midstate Communications, Inc.
RC Communications, Inc.
Roberts County Telephone Cooperative Association of New Effington, SD
Santel Communications Cooperative, Inc.
Splitrock Properties, Inc.
Stockholm-Strandburg Telephone Company d/b/a ITC
TrioTel Communications
Valley Telecommunications Cooperative Association, Inc.
Venture Communications Cooperative
West River Cooperative Telephone Company
West River Telecommunications Cooperative
Western Telephone Company

Certificate of Service

I hereby certify that a copy of the forgoing **Reply Comments of the South Dakota Telecommunications Association** was served this 23rd day of May, 2011, electronically or by US Mail, to the persons below.

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