Before the
Federal Communications Commission
Washington, DC 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 a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	

REPLY COMMENTS OF COX COMMUNICATIONS, INC.

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SUMMARY

These reply comments focus on two areas: (1) the terms and conditions for interconnection of Internet Protocol ("IP") voice services; and (2) how support for legacy voice services should be phased out as it is supplanted by broadband support under the Connect American Fund.

IP Interconnection.

Predictable and reasonable rates, terms and conditions for interconnection of voice traffic are critical for a competitive market for voice services to continue to develop and thrive. As networks transition from traditional circuit-switched interconnection to IP-enabled interconnection for voice services, the Commission and the states must continue to ensure that those rates, terms and conditions remain reasonable.

The Commission should adopt basic principles for IP interconnection. These include requiring incumbent LECs to negotiate in good faith; permitting competitive providers to interconnect at any technically feasible point; not applying the TDM-design "network edge" concept to IP services; and requiring each provider to bear its own costs of reaching the interconnection point.

Phase-Out of Voice Support.

The Commission should phase out support for legacy voice services. In addition to the bidding process described in Cox's comments for areas that have no broadband service, the Commission should adopt rules that eliminate voice support over a reasonable transition period in areas where broadband service already is available. In areas where multiple providers now receive voice support, those providers should be required to use that support to provide broadband service. The Commission should not subsidize voice service indefinitely but instead should shift all funding to broadband over time.

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REPLY COMMENTS OF COX COMMUNICATIONS, INC.

Cox Communications, Inc. ("Cox"), by its attorneys, hereby submits its reply comments on issues other than those addressed in Part XV of the Commission's *Notice* in the above-captioned proceedings.[1]

I. Introduction

These reply comments focus on two key elements of any reform to the current intercarrier compensation and high cost universal service regimes. First, they address the continued need for predictable and reasonable rates, terms and conditions for interconnection for voice service. As

[1] Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing a Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking,* WC Docket Nos., 10-90, 07-135, -5-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, FCC 11-13 (rel. Feb. 8, 2011) (the *"Notice"*). The comment dates for the portions of the *Notice* other than Part XV were announced on March 2, 2011. *See* Connect America Fund; Developing a Unified Intercarrier Compensation, 76 Fed. Reg. 11,632, 11,657 (Mar. 2, 2011).

shown below, predictable and reasonable rates, terms and conditions are important as the industry shifts to all-IP interconnection.

Second, Cox responds to comments concerning the design of the transition from the current voice-centric high cost support program to the broadband-focused Connect America Fund. That transition should be conducted in a manner that most efficiently applies the available funds to achieve the goals of the National Broadband Plan ("NBP") and the *Notice*. The key to that transition will be to ensure that support for broadband is distributed efficiently and fairly, through processes that do not favor specific service providers, while reducing support for voice service over a reasonable period.

II. The Transition to IP-Based Interconnection for Voice Traffic Is Best Facilitated by Ensuring that IP Interconnection Adheres to Key Principles.

The Commission correctly has recognized that any changes to the intercarrier compensation regime must be made in the context of the long-term changeover from traditional, TDM-based telephone services to IP-based telephone services. This transition is desirable for many reasons, including increased efficiency and innovation in the provision of voice services. A critical element of that transition that will be affected by the Commission's actions on intercarrier compensation issues is the availability of interconnection for IP-based services on reasonable rates, terms and conditions.

AT&T, CenturyLink and Verizon argue against the adoption of specific rules for IP interconnection.[2] They argue, instead, that IP interconnection should be governed by market forces or that the Commission should wait some unspecified period before adopting any rules. These arguments are entirely self-serving and should be rejected.

[2] Comments of AT&T at 16-30, Comments of CenturyLink at 54-6, 71-4; Comments of Verizon at 16-18.

There is no evidence that the market would work to set reasonable terms and conditions. Companies the size of AT&T, Verizon and CenturyLink have very little incentive to continue bargaining fairly with significantly smaller companies, particularly when those companies are their direct competitors. Thus, the 1996 Congressional determination that market forces would be insufficient to guarantee reasonable terms for interconnection remains true today.

Allowing market forces to determine the terms of IP-enabled voice interconnection would essentially give the incumbent LECs the unilateral ability to develop the paradigm governing IP interconnection, which ultimately would delay the transition to IP interconnection. Currently, companies that interconnect using TDM technology have established rights under Section 251(c)(2) and Section 252 of the Communications Act. Those rights allow them to understand how and where they can interconnect; the prices they will pay; and how they can enforce their access to reasonable terms of interconnection. If IP interconnection were subject solely to "market-based" terms and conditions, there would be little certainty about these issues, and very little incentive to convert to IP interconnection until some level of certainty could be achieved.

To avoid these problems, the Commission should maintain basic requirements for interconnection and exchange of traffic. These rules will simplify negotiations and accelerate the process of entering agreements and interconnecting, while limiting litigation over interconnection rights. Those requirements should be as follows:

- Incumbent LECs must negotiate direct IP-to-IP interconnection on reasonable terms and conditions and in good faith, just as they are required to negotiate TDM interconnection today.
- Incumbent LECs must agree to interconnect directly with competitive LECs at any technically feasible point, consistent with basic Section 251(c) obligations.
- The "network edge" concept should not be applied to IP interconnection because it is not relevant to IP networks and because there is no geographic foundation to apply it to such networks.

- Each provider shall be responsible for the cost of providing network facilities to the point of interconnection, including trunking and other facilities.

These rules will prevent incumbent LECs from using their size and market power to dictate terms of interconnection. As the evolution of interconnection agreements under Sections 251 and 252 has demonstrated, having baseline requirements in place facilitates the negotiation of agreements and in the long run creates a stable environment for interconnection. Adopting these principles as a starting point for negotiations also will allow time for technical bodies, such as the technical advisory committee proposed by Sprint and T-Mobile, to establish more specific technical and operational parameters without impeding the deployment of IP-based interconnection.[3]

Finally, Cox encourages the Commission to recognize that there should be continuing review of the regulatory framework for IP-based interconnection of voice and other interconnected services. Ongoing reviews will be necessary to address changes in the marketplace as the transition progresses and to avoid the potential for market disruptions by incumbents that maintain market power and are likely to attempt to use that power to enhance their competitive positions. Ongoing review also will permit the Commission to address technological changes that could affect the nature of interconnection and the relevance of its existing regulations.

III. The Commission Should Reform the High Cost Program to Replace Subsidies for Voice Service with Support for Broadband.

The Commission has recognized that the nation is moving rapidly into a broadband future, when the communications service that will be critical for economic development, public

[3] *See* Sprint Comments at 22-26; *see also* Letter of Kathleen O'Brien Ham, Vice President, Federal Regulatory Affairs, T-Mobile USA, Inc. and Charles W. McKee, Vice President, Government Affairs, Sprint Nextel Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket 01-92, filed Jan. 21, 2001, at 3 (proposing technical advisory committee to development recommendations for technical aspects of IP interconnection).

safety and other needs will be, in fact, the broadband network. The broadband network will eventually replace the legacy networks for voice services, much as it provides the vehicle for many of the advanced voice services that consumers are embracing today. In that environment, the current subsidies for legacy network voice service will be obsolete, and should be supplanted by a program that delivers broadband to all Americans, through carefully targeted high-cost subsidies offered in conjunction with a reformed Lifeline/Link-Up program. As described in Cox's initial comments, Cox believes that the Commission should look to competitive forces, and specifically to a well-defined bidding process, to bring broadband to consumers who have no access to it today.[4]

The Commission also should phase out all legacy support for high cost voice services over time. These subsidies should be replaced by support for broadband services that is tailored to the conditions in specific markets. This approach will ensure that high cost support is spent efficiently and effectively to bring broadband service to unserved areas.

A. The Transition Should Include Elimination of Voice Support over a Reasonable Period of Time.

NASUCA argues that the Commission should retain voice subsidies indefinitely.[5] The Commission should not do so, and instead should eliminate voice support over time.

Initially, it is important to recognize that Section 254 does not mandate any specific level of support for high cost voice service, or even that financial support be made available at all. Section 254 simply requires that there "be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service."[6] The Commission is, therefore,

[4] *See* Cox Comments, filed April 18, 2011 ("Cox April 18 Comments"), at 6-9.
[5] *See, e.g.,* NASUCA Comments at 9, 22, 72.
[6] 47 U.S.C. § 254(b)(5).

empowered to determine what those mechanisms should be and how they will support the evolving definition of universal service.

In that context, there are at least two reasons to eliminate voice support. First, the infrastructure necessary for broadband also will support voice, and there is very little incremental investment necessary to maintain voice service once broadband is in place. Thus, once broadband service is available, maintaining subsidies for voice service will be redundant and only will result in windfalls for voice providers.

Second, maintaining voice subsidies in the long term either will result in increased overall levels of high cost funding, which will have to be borne by providers and users across the country, or will slow down the deployment of broadband if the Commission chooses to limit the overall size of high cost support to its current level. Either of these outcomes is undesirable and would not serve the public interest. Given the limited benefits that would accrue from maintaining voice support in the long term, and given the now obvious benefits that would result from the deployment of broadband to unserved areas, there is no reason for the Commission to accept the burdens that maintaining legacy support would create.

Instead, as Cox recommended in its initial comments, the Commission should establish a process for phasing down voice support over time, and shifting all support to broadband service by the end of the transition.[7] This process should ensure that carriers are treated equally, whether they are incumbents or competitors, subject to price caps or rate of return regulation or serve rural or non-rural areas. Equal treatment is particularly appropriate for landline providers, which have similar infrastructure and maintenance requirements in serving high cost areas.

[7] Cox April 18 Comments at 9-11.

B. The High Cost Program Should Be Tailored to the Needs of Specific Targeted Areas.

In its comments, Cox also described a bidding process that would focus support on targeted areas by requiring bidders to meet minimum standards, requiring bidders to contribute their own funding, comparing bids across the country and permitting lower speeds in areas where the Commission's speed standards cannot be met.[8] In these areas, as described above, legacy support should be phased out over time as broadband becomes available.[9] There are, however, two other situations that the Commission should address to rationalize high cost support – those in which unsubsidized providers already are offering broadband service and those in which both incumbents and competitive eligible telecommunications carriers ("ETCs") are receiving support for voice services.

Simply put, there is no need for any legacy voice support in an area where broadband service is available from an unsubsidized provider. Given that the infrastructure necessary to support broadband service also will support voice service, the existence of unsubsidized broadband is compelling evidence that support for voice also is unnecessary. Consequently, in any area where there is at least one unsubsidized provider of 4 Mbps downstream/1 Mbps upstream service, the Commission should phase down existing voice subsidies promptly. Cox supports the NCTA proposal for this phase down.[10]

Next, in areas where both incumbents and competitive ETCs receive high cost support today, and where 4 Mbps/1 Mbps service is not yet available, the Commission should not eliminate the support provided to the competitive ETCs. Rather, the Commission should require

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[8] *Id.* at 6-9.
[9] *See supra* Section III(A).
[10] *See* National Cable & Telecommunications Association Petition for Rulemaking, Reducing Universal Service Support In Geographic Areas That Are Experiencing Unsupported Facilities-Based Competition, WC Docket No. 05-337, at 11-20 (filed Nov. 5, 2009).

both incumbents and competitive ETCs in those areas to use that support to provide broadband service throughout their service areas (on a reasonable timetable). The Commission also may wish to consider experimenting, after some initial period, with a reverse auction mechanism for these areas as a way of reducing the support required.

In areas where multiple ETCs receive subsidies the Commission should not, as proposed by some incumbents, cut off subsidies to individual ETCs, except as part of a general reduction of legacy support that applies to all ETCs, whether incumbents or competitors.[11] The only real rationale for cutting off subsidies to competitors is to save money in the short term. In practice, however, offering support to incumbents while cutting off competitors will give those incumbents a competitive advantage and will harm consumers, without any direct benefits. It is more reasonable to apply any reductions in legacy subsidies to all competitors equally.

[11] *See, e.g.*, *See*, *e.g.*, Comments of AT&T at 98-99; Comments of CenturyLink at 35. Verizon would go even further, proposing that the Commission eliminate CETC support "as soon as possible." Comments of Verizon at 46-50.

IV. Conclusion

For all of these reasons, the Commission should adopt rules consistent with these reply comments.

Respectfully submitted,

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May 23, 2011

Certificate of Service

I, Cynthia Porter, certify that on this 23[th] day of May 2011, I caused a copy of the foregoing Comments of Cox Communications, Inc. to be served on the following by hand delivery.

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