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 a Unified Intercarrier Compensation Regime	))	CC Docket No. 01-92

REPLY COMMENTS OF THE RURAL CELLULAR ASSOCIATION

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May 23, 2011

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INTRODUCTION AND SUMMARY

The Rural Cellular Association ("RCA"), the association of competitive carriers, hereby files these reply comments in response to the opening comments in the above-captioned dockets concerning universal service reform.

As RCA explained in its opening comments, the Commission should work with Congress to update the underlying statute before undertaking a fundamental reorientation of the high-cost universal service fund ("USF"). Congress authorized the existing USF programs at a time when voice telephony service was the clear focus of universal service policy, and nascent broadband services were far from an essential communications tool. The landscape of course has changed dramatically since 1996, and all agree that broadband networks will someday replace the public switched telephone network as the foundation of our communications ecosystem—for urban and rural areas alike. The record reflects significant questions concerning the Commission's existing authority to shift USF support from narrowband to broadband services, however. In particular, Section 254(c) defines universal service as an "evolving level of telecommunications services,"[1] thus excluding information services such as broadband Internet access. The Commission accordingly should work in cooperation with Congress to ensure that its reforms are appropriately grounded in the statute, and to prevent debilitating uncertainty that could undermine the Commission's broadband deployment goals.

If the Commission proceeds with far-reaching rule changes despite its uncertain statutory authority, it should embrace competitive and technological neutrality, rely on a forward-looking cost model with true portability[2] as the basis of support for all carriers, and reject reverse

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[1] 47 U.S.C. § 254(c)(1).
[2] *I.e.*, if a rural incumbent loses a telephone service line to a competing eligible carrier, then the incumbent also would lose high-cost funding associated with that line. True—or "full"—

auctions as a funding mechanism. That adherence to regulatory even-handedness should similarly extend to the manner in which the Commission phases out current universal service support. Competitive and technological neutrality are essential to reap the benefits of market-driven policies that promote efficient investment, respond to consumer preferences, and prevent wasteful outlays from the high-cost program. Neutral policies also will help rural America to obtain the critical public safety benefits that mobile devices offer. The record establishes that the most effective way to achieve the Commission's goals of increasing competition, controlling the size of the fund, and targeting funding in an efficient manner is to employ a forward-looking cost model with fully portable support. Single-winner reverse auctions, in contrast, would entrench monopoly providers and thereby subvert competition in rural America, with potentially devastating effects for consumers. A forward-looking cost model paired with portable, success-based funding will achieve all of the benefits that are ascribed to reverse auctions, including cost containment, without the adverse competitive effects.

DISCUSSION

I. THERE IS WIDESPREAD AGREEMENT THAT ANY USF REFORMS SHOULD BE COMPETITIVELY AND TECHNOLOGICALLY NEUTRAL

A. Neutrality Is Essential To Harness Market Forces and Target Support to the Most Efficient Carriers.

RCA's opening comments explained that the USF program should support whichever competitors and technologies can provide affordable, high-quality services in the most efficient manner.[3] The Commission should not pick winners and losers by skewing support mechanisms in favor of incumbent providers or wireline technologies. Further, the Commission should not

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portability therefore is defined by fund allocation that is entirely success-based and technology-neutral.

[3] Comments of the Rural Cellular Association, WC Docket No. 10-90 *et al.*, at 3-5, 10 (filed April 18, 2011) ("RCA Comments").

choose mechanisms (such as reverse auctions) that favor larger carriers over smaller carriers. Rather, the Commission should establish a level playing field that promotes the cost-efficient provision of service and gives every carrier a fair and equal opportunity to compete for funding. In doing so, the Commission will harness market forces to identify the lowest-cost technologies that will achieve the Commission's goals of making broadband available to all Americans and maintaining connectivity to the PSTN.

The record confirms that there is widespread support for competitive and technological neutrality as foundational principles for reform. Across the industry, across platforms, and across technologies, carriers of all sizes have voiced their support for policies that ensure a level playing field and that do not place a thumb on the scale in favor of any particular technology or carrier. In addition to RCA's members, carriers as disparate as Verizon, Sprint, T-Mobile, US Cellular, Comcast, and Time Warner Cable, despite differing somewhat in the specifics of their proposals, all agree on the importance of competitive and technological neutrality as the basis for universal service policy.[4] In particular, the Commission should ensure that the distribution of support is not biased in favor of any technology platform or provider and does not impede entry or distort competition thereafter. Neutrality also will enable the Commission to honor many consumers' preferences for mobility.

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[4] *See* Comments of Sprint Nextel Corporation, WC Docket No. 10-90 *et al.*, at 41 (filed Apr. 18, 2011) ("Sprint Nextel Comments"); Comments of Comcast Corporation, WC Docket No. 10-90 *et al.*, at 17 (filed Apr. 18, 2011) ("Comcast Comments"); Comments of United States Cellular Corporation, WC Docket No. 10-90 *et al.*, at 11–21, 55–65, 75–84 (filed Apr. 18, 2011) ("US Cellular Comments"); Comments of T-Mobile USA, Inc., WC Docket No. 10-90 *et al.*, at 6–7, 9–15 (filed Apr. 18, 2011) ("T-Mobile Comments"); Comments of Verizon and Verizon Wireless, WC Docket No. 10-90 *et al.*, at 58–63 (filed Apr. 18, 2011) ("Verizon and Verizon Wireless Comments"); Comments of Time Warner Cable Inc., WC Docket No. 10-90 *et al.*, at 25–33 (filed Apr. 18, 2011) ("TWC Comments").

In addition to meeting consumers' preferences, neutral rules that put mobile wireless services on equal footing will bring critical public safety benefits. The Commission has recognized that mobile services create the "potential for the American public to have access to emergency services personnel during times of crisis, wherever they may be."[5] Wireless mobile devices afford customers an essential lifeline wherever they are located, and they promote "good Samaritan" calls reporting accidents, crimes, or other emergencies. Wireless services also enable first responders to transmit data and images during emergency situations. Funding rules that give artificial preferences to wireline carriers would deprive rural customers of these vital public safety benefits, and thus undercut a core tenet of universal service policy.[6] Neutral policies, by contrast, will enable comparisons of a carrier's full range of benefits and costs, including public safety benefits, to promote the efficient deployment of voice and broadband services to high-cost areas.

The Commission has deviated from neutrality in recent years, and those deviations have led to poorly targeted support. For example, the Commission has capped high-cost support only for competitive carriers, even though incumbent providers receive far more funding.[7] The decision to impose a cap that disproportionately affects wireless providers ignores consumer preferences—including, in particular, the growing demand for mobile services—and also impairs the competitive providers' ability to comply with state-mandated build-out and service requirements. Capping support only for competitive carriers also diminishes incentives for

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5 *Wireless E911 Location Accuracy Requirements,* Second Report and Order, PS Docket No. 07-114, ¶ 1 (rel. Sept. 23, 2010).

6 *See, e.g.*, 47 U.S.C. § 254(b)(3) (directing the Commission to ensure that rural and urban areas have access to reasonably comparable services).

7 *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Order, 23 FCC Rcd 8834 (2008).

incumbent LECs to operate more efficiently by impeding their rivals' ability to invest and reducing the competitive ramifications of their own failure to innovate or to meet customers' needs.

Finally, the Commission should similarly adhere to a position of non-discriminatory treatment when it comes to phasing out high-cost support. Any eventual transition to a broadband-centric fund should extend eligibility to 3G wireless carriers and avoid premature withdrawal of support for existing voice services. While RCA fully supports a move to supporting broadband services, that move should not be made at the expense of rural consumers who heavily rely on current high-cost support for voice services. A gradual approach to this comprehensive shift in support mechanisms is in-line with the reality that rural America will likely continue to lag behind more urban areas in broadband penetration for years to come.

B. A Right of First Refusal Would Be Blatantly Anticompetitive and Would Violate Core USF Principles.

The single worst example of favoritism that would directly reduce competition and harm consumers is the proposal to grant incumbent LECs a right of first refusal to obtain high-cost support, to the exclusion of competitive carriers.[8] Placing a thumb on the scale in favor of inefficient ILECs through a right of first refusal would significantly undermine the Commission's goals of promoting competition and efficiency. There simply is no justification for granting high-cost, inefficient carriers a significant preference over lower-cost, more efficient alternatives. The fact that USF funding originally flowed only to wireline carriers—as that was

[8] *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; *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, ¶¶ 431–47 (rel. Feb. 9, 2011) ("NPRM").

the only technology available for many years—in no way justifies locking in preferences for such carriers going forward. To the contrary, such an approach would irrationally disregard the emergence of lower-cost alternatives that many consumers prefer. Accordingly, freezing in place special privileges for legacy providers and disadvantaging mobile wireless providers would directly undercut the statutory directive to ensure that services available to rural customers are "reasonably comparable" to those services available in urban areas.[9] In fact, such a bald preference would conflict not only with core universal service principles but with the development of competition in rural areas, thus subverting *both* of the twin pillars embodied in the Telecommunications Act of 1996.

Many commenters share these serious concerns. Verizon recognizes that providing a right of first refusal "could fail to take into account the potential benefits of new competition from intermodal providers and legitimate consumer preferences for different technologies, particularly in unserved areas."[10] T-Mobile characterizes a right of first refusal as "blatant favoritism to ILECs."[11] Cellular One and Viaero Wireless note that a "right of first refusal option[] would result in subsidizing inefficient operations" and "could also slow down the workings of the marketplace."[12] Other providers representing a variety of technology platforms—including Time Warner Cable, Sprint, US Cellular, Leap, CTIA, ViaSat, and

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[9] 47 U.S.C. § 254(b)(3).

[10] Verizon and Verizon Wireless Comments at 65.

[11] T-Mobile Comments at 16.

[12] Comments of MTPCS, LLC, d/b/a Cellular One and N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, WC Docket No. 10-90 *et al.* at vii (filed Apr. 18, 2011) ("MTPCS Comments").

COMPTEL—all confirm that a right of first refusal is blatantly anticompetitive and inconsistent with the Commission's stated principles of reform.[13]

While competitive providers recognize that a right of first refusal would be profoundly unwise and most likely unlawful, many rural ILECs naturally would be delighted to be accorded such a remarkable preference. Indeed, such carriers surely recognize that if they were forced to compete for customers and associated per-line support, they would receive significantly lower subsidies, prompting them to favor an approach that grants them subsidies without having to compete at all. But that approach would elevate provider welfare over consumer welfare, and there is no way to square it with the Commission's goals of increasing efficiency and accountability through market-driven reforms.

II. A BROAD CROSS-SECTION OF STAKEHOLDERS AGREE THAT THE BEST WAY TO IMPLEMENT NEUTRAL REFORMS IS THROUGH A FORWARD-LOOKING COST MODEL

A diverse array of carriers and other commenters also agree that basing support on a properly designed cost model will create appropriate incentives for carriers to improve

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13 *See* TWC Comments at 30–31 (a right of first refusal for ILECs "would elevate the interests of particular competitors over those of consumers" by "grant[ing] subsidies to LECs regardless of whether another carrier or an alternative technology would make better use of scarce funds"); Sprint Nextel Comments at 41 (a right of first refusal would "eliminate the incumbent LECs' incentive to provide service efficiently by basing support on the carriers' 'costs,' and effectively preclude consumers from subscribing to supported services from providers that have adopted platforms and technologies different from those used by the incumbent LEC"); US Cellular Comments at 15–17, 83–84; Comments of CTIA—The Wireless Association, WC Docket No. 10-90 *et al.*, at 24–26 (filed Apr. 18, 2011) ("CTIA Comments"); Comments of ViaSat, Inc., WC Docket No. 10-90 *et al.*, at 24-25 (filed Apr. 18, 2011) (a right of first refusal "would create inefficiencies, and would not be competitively or technologically neutral"); Comments of COMPTEL, WC Docket No. 10-90 *et al.*, at 31 (filed Apr. 18, 2011) ("COMPTEL Comments").

efficiency, increase innovation, and reduce costs.[14] The Commission should distribute *all* high cost funding through a competitively neutral, forward-looking cost model that implements portable funding across the board.

The Commission repeatedly has found that a forward-looking cost model "best approximates the costs that would be incurred by an efficient carrier in the market" and thus "will send the correct signals for entry, investment, and innovation."[15] Because its core purpose is determining the costs an efficient carrier would incur, "a forward-looking economic cost methodology creates the incentive to operate efficiently and does not give carriers any incentive to inflate their costs or to refrain from efficient cost-cutting."[16] Those early Commission findings remain more apt than ever in today's increasingly competitive, multi-platform environment, which makes it all the more perplexing that they are now getting short shrift.

A particular advantage of a forward-looking cost model is that it avoids the inefficiencies reflected in incumbent wireline carriers' embedded cost structures. Tying funding to incumbent LECs' embedded costs, coupled with rate-of-return regulation and study-area-wide calculations

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[14] *See, e.g.*, Comments of Public Knowledge and Benton Foundation, WC Docket No. 10-90 *et al.*, at 5 (filed Apr. 18, 2011) ("Public Knowledge/Benton Foundation Comments") (recommending a "self-provisioning model" as the "most practical way" to achieve broadband connectivity in unserved areas); MTPCS Comments at 34 ("A forward-looking economic cost model would serve as a realistic and effective mechanism for ensuring efficient use of CAF funding."); US Cellular Comments at 39–41 ("A well designed model that targets support to high-cost areas and identifies an amount of support that is portable to all market participants who choose to enter, can serve to preserve and advance universal service, as required by the Act." (internal citations and quotation marks omitted)); T-Mobile Comments at 13; Comments of Global Crossing North America, Inc., WC Docket No. 10-90 *et al.*, at 17–18 (filed Apr. 18, 2011). *See also* TWC Comments at 31–32 (suggesting the use of a cost model as an alternative approach to provisioning CAF support).

[15] *Federal-State Joint Board on Universal Service,* CC Docket No. 96-45, Report and Order, 122 FCC Rcd 8776, ¶ 224 (1997) ("*USF First Report and Order*").

[16] *Id.* ¶ 226.

of support, has resulted in inefficient and poorly targeted funding. As the Commission has recognized, the existing system effectively encourages inefficient over-investment so that incumbent LECs can obtain additional high-cost support, while simultaneously discouraging more efficient business operations.[17] The current system also inexplicably permits incumbent LECs to continue receiving duplicative support after a customer has moved to a different carrier, and continues to support inefficient technologies.

A competitively neutral cost model paired with portable funding will control growth in high-cost funding by tying support levels to a carrier's success in capturing customers. The Commission has long recognized that a truly efficient and competitively neutral support mechanism should "facilitate a market based approach whereby each end-user comes to be served by the most efficient technology and carrier."[18] A cost model with full portability will do exactly that—it rewards efficiency and carriers that win customers on the merits of their products, services, and prices, while simultaneously eliminating excessive funding. As long as providers receive support in proportion to their success in the marketplace, the USF program will be aligned with competitive incentives and will avoid unnecessary spending.[19]

There is widespread recognition in the record that a cost model is the best mechanism to target funding efficiently and to control the size of the fund. For example, US Cellular correctly observes that a forward-looking cost model works in tandem with competitive markets, unlike a

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17 NPRM ¶ 171 ("Absent any limits, the rate-of-return regulatory framework provides universal service support [under the current high-cost mechanism] to … a company with high costs due to or exacerbated by imprudent investment decisions, bloated corporate overhead, or an inefficient operating structure.").

18 *USF First Report and Order* ¶ 48.

19 Such a mechanism must include at its core an ability to ensure that whenever a subscriber leaves one carrier for another, the support for the carrier that lost the customer must end.

reverse auction, which by its nature "drives competition out of markets receiving support."[20] Cellular One and Viaero Wireless recognize that a cost-model, by providing sufficient support yet no more than is needed, can induce competition in rural areas.[21] Even CenturyLink, which seeks to retain its own inefficient right of first refusal, nevertheless concedes that "a well-designed forward-looking cost model could be an effective tool for determining and distributing ongoing high-cost support for broadband and voice services in high-cost areas."[22] Put simply, a forward-looking cost model with full portability is the proposal that best maps to the Commission's asserted goals for reform.

III. THE RECORD ESTABLISHES THAT SINGLE-WINNER REVERSE AUCTIONS WOULD UNDERMINE COMPETITION WITHOUT ENSURING OFFSETTING BENEFITS

The NPRM understandably sought comment on the potential for reverse auctions to determine efficient support levels. But the record reveals serious flaws that outweigh the anticipated benefits. Among other problems, while carriers would "compete" to be selected as support recipients, a single-winner approach would entrench the auction winner and thereafter *preclude* competition. Consumers would be harmed as a result, as entrenching monopoly providers through USF policy would diminish choice, innovation, and service quality. Critically, a forward-looking cost model would achieve the principal benefits ascribed to reverse auctions while avoiding these serious concerns.

A. Reverse Auctions Would Be Inferior to a Cost Model as a Basis for Support.

The record demonstrates that reverse auction proposals have several serious flaws that would end up harming competition and consumers.

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20 US Cellular Comments at 40–41.

21 MTPCS Comments at 34–35.

22 Comments of CenturyLink, Inc., WC Docket No. 10-90 *et al*. at 42 (filed April 18, 2011).

First, the use of single-winner auctions to select support recipients would come at the expense of rural competition. A single-winner auction likely would preclude most losing bidders from offering service, either because the unsubsidized costs of doing so exceed available revenues or because competing with a subsidized provider is untenable, or both. Accordingly, a single-winner auction would often consist of carriers' competing to become the monopoly provider for a given area. The Commission should structure high-cost support to avoid a false choice between (1) affordable and reasonably comparable services and (2) competition; it should promote both key goals. Indeed, if the Commission chooses to preclude competition by funding one provider, it will fail to accomplish the objective of deploying services in high-cost areas that are reasonably comparable to those in urban areas. As discussed above and further below, a cost model paired with success-based, portable support does not sacrifice one core principle in service of another, as carriers would compete for customers and the associated per-line support on an ongoing basis, not just during a bidding process. Such ongoing competition is vital to ensuring continued innovation, service quality, and efficiency in rural areas.

Second, single-winner auctions would harm competition even apart from the effects of directing all available support to a sole provider. Specifically, there is a significant risk that large carriers like AT&T and Verizon would participate in auctions as a means of squelching competition from rural and regional providers.[23] Commenters explain that reverse auctions would enable large carriers to accept artificially low support levels, including support below cost in some circumstances, in order to block or deter competition going forward.[24] The largest

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23 Such risks (among other competitive problems) would increase if AT&T were allowed to acquire T-Mobile.

24 *See, e.g.*, MTPCS Comments at 32–33 ("[A]n auction participant might choose to engage in 'l[o]w ball' bidding, being willing to win an auction at a price that would not generate a competitive return, because such a strategy would improve the auction participant's

carriers can rely on urban revenues, and often have exclusive handsets with high margins, that they can use to subsidize rural service consisting of minimal coverage and poor service quality. By spreading their costs across high-cost and low-cost areas, and accepting lower support in high-cost areas to drive out competitors, large carriers could avoid competing on the merits.[25] Wireless competitors would be vulnerable to similar anticompetitive conduct by ILECs if support were awarded in areas that favor such carriers.[26]

Third, an auction process would run the risk of awarding funding without adequate assurances that the provider would construct the requisite facilities and provide high-quality service.[27] If a carrier wins a bid through a low-ball offer and deploys mediocre service, the Commission would be hard-pressed to take effective remedial action. Likewise, the auction process has no mechanism to calibrate funding if a winning carrier's service quality declines over time. A one-time grant of capital creates disincentives for carriers to sustain their quality levels and for regulators to invest time and resources in monitoring quality levels.[28] A cost

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market position by eliminating support for competitors, or would bring savings to the auction participant in the form of lower contribution obligations."); US Cellular Comments at 32–33.

25 *See* Scott Wallsten, *Reverse Auctions and Universal Telecommunications Service: Lessons from Global Experience,* Fed. Comm. L. J., 61:373, 387, 394 (April 2008) (describing such incentives).

26 *Cf.* TWC Comments at 29–30 (Commission should require rural carriers to disaggregate USF support within their study areas so that it will have the tools to identify truly high-cost areas).

27 *See, e.g.*, Comments of the National Exchange Carrier Association, Inc. *et al.*, WC Docket No. 10-90 *et al.*, at 76–77 (filed Apr. 18, 2011) ("NECA *et al.* Comments") ("Reverse auctions will encourage a 'Race to the Bottom' that could result in serious service quality problems, contrary to section 254 of the Act."); US Cellular Comments at 31 ("The Commission would also be required to monitor and regulate the quality of service delivered by the auction winner to its subscribers, since there would be no competitive marketplace capable of disciplining the carrier's conduct.").

28 *See* Comments of the Nebraska Public Service Commission for Sections I through XIV and Reply Comments for Section XV, WC Docket No. 10-90 *et al.*, at 24 (filed Apr. 18,

model, by contrast, relies on *ongoing* competition, and thus spurs providers to continue to innovate, reduce costs, and improve their service over the life of funding. If a carrier provides poor service, customers would be able to switch to a carrier offering superior service and take the funding with them. A cost model with portable support thus would facilitate a competitive market, rather than replacing it as an auction mechanism would.

Finally, commenters note that reverse auctions might leave some regions unserved. Public Knowledge notes that the use of more granular geographic service areas to determine the scope of bidding would make it easier for potential providers to exclude particular areas with the highest per-unit costs.[29] And in any event the Commission has proposed that bidders set their own standards for minimum coverage and be able carve out particular high-cost housing units.[30] NASUCA explains that such a "self-selection" process—whereby the bidder determines where it will and will not serve—"would likely target [only] the low-hanging fruit, leaving the more difficult [unserved areas] unaddressed").[31] The result again is that auctions would fail to provide incentives for carriers to serve the highest-cost areas, whereas cost models provide such incentives by linking funding to the customer based on a forward-looking estimate of the cost of serving that customer.

2011) (reverse auctions "will lock consumers into receiving a certain level of service throughout the bid period with no incentive to improve network quality or service beyond the minimum expectations"); NECA *et al.* Comment at 77 (reverse auctions "undermine[] the normal incentives for investment" and that a provider "would be loath to make investments necessary to enable evolving services, especially if the auction term is near its end"); *id.* at 78.

29 Public Knowledge/Benton Foundation Comments at 3; *see also* NASUCA Comments at 61-63 (use of reverse auctions without a cost model "would likely generate outcomes similar to those seen in the California Advanced Services Fund ('CASF')" program, which "was much more successful in attracting projects for 'underserved' areas rather than unserved areas").

30 NPRM ¶¶ 134, 334.

31 NASUCA Comments at 63.

Based on these and other concerns, the state members of the Federal-State Joint Board on Universal Service recently argued that the Commission "should abandon" reverse auction proposals in favor of alternatives.[32] Although RCA does not share all of views of the state members, it agrees with their warning that reverse auctions would sacrifice competitive neutrality principles, could result in inaccurate bidding, and would fail to ensure ongoing quality of service.[33] In short, RCA agrees with the state members of the Joint Board that reverse auctions would fail to achieve the consensus goals of ensuring competitive and technological neutrality and the efficient targeting of funds. And if the Commission ultimately proceeds with reverse auctions, in spite of the concerns set forth above, it should ensure that the procedures embrace the benefits of mobility rather than treat wireless providers as disfavored participants.

B. Basing Support on a Cost Model Would Achieve the Intended Benefits of Reverse Auctions Through a More Competitive Process.

In contrast to auction proposals, reliance on a cost model and portable support would achieve the same intended benefits but without the adverse competitive effects. For example, Verizon and others argue that an auction process would promote competition and constrain funding.[34] RCA appreciates those goals, but the record demonstrates that auctions would not advance them as effectively as a forward-looking cost model with true portability.

With regard to promoting competition, RCA has explained that a cost model with success-based funding is preferable because it harnesses competition for the life of service, not

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[32] Comments of State Members of the Federal State Joint Board on Universal Service, WC Docket No. 10-90 *et* al. at iii (filed May 2, 2011).

[33] *Id.* at 79–83, 89–91.

[34] *See, e.g.*, Verizon and Verizon Wireless Comments at 46–47; Sprint Nextel Comments at 41.

merely at the bidding stage of an auction, and other commenters agree.[35] Ongoing competition promotes efficiency and innovation and increased consumer choice. It also ties funding to actual service of subscribers, rather than protecting incumbent LECs against line loss. Indeed, as noted above, the principal competitive effect of auctions likely would be to entrench monopoly providers, rather than promoting competition. And low-cost bids designed to drive out competitors likely would motivate only minimal investment in network facilities and service quality.

With regard to constraining funding, the case for a cost model is even stronger. The Commission has made clear that cost containment is a central priority of USF reform.[36] The NPRM assumes that single winner reverse auctions would control costs,[37] but that is entirely untested. Especially given the uncertain design of any auction mechanism, any cost controls at this point remain hypothetical and aspirational. Indeed, one can easily imagine that particular auctions may attract one or few bidders that are able to submit bids well above their costs, or auctions in especially high-cost areas in which carriers choose to bid only at very high subsidy levels. Thus, an auction process may offer some potential constraints on cost, but certainly no guarantees. Further, it is not clear that in any renewal period sufficient competition would exist

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35 *See* MTPCS Comments at 37 ("Under the existing USF system, marketplace incentives and portability of competitive ETC support [in contrast to support provided to ILECs] strongly motivate competitive carriers to attract customers, accomplished by building and upgrading infrastructure when they can afford to do so."); TWC Comments at 20 (because "[h]igh-cost support … has never become 'portable,'… [w]hen an incumbent LEC loses a customer to a competitive provider …, such loss does nothing to diminish the ILEC's support and, in fact, such loss may actually increase per-line support") (internal citations omitted).

36 NPRM, ¶¶ 10, 80, 412.

37 *See, e.g.,* NPRM ¶ 284.

to have an effective auction, which would allow the original bidder to collect supra-competitive profits in any following period.[38]

A forward-looking cost model with true portability, by contrast, will ensure actual, measurable cost savings and is guaranteed to constrain costs. The cost model approach allots a total amount per subscriber in advance, with no risk of excess funding. The size of the fund under a cost model thus is knowable, rather than speculative. And, as the Commission has found, a cost model is the best mechanism to link funding to true costs of serving customers. Thus, if the Commission embraces genuine portability, it could implement RCA's proposal to efficiently target funding and reverse recent growth trends.

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38 This scenario underscores the risk of predatory pricing, which could occur where one large carrier submits a below-cost bid to drive out competition and then raises prices after all competition is eliminated.

CONCLUSION

The Commission should ensure that its reforms are technologically and competitively neutral, and should employ a forward-looking cost model with portability to distribute all funds. RCA looks forward to working with the Commission to meet its goals.

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May 23, 2011