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

REPLY COMMENTS OF THE UTAH RURAL TELECOM ASSOCIATION

May 23, 2011

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I. INTRODUCTION

The Utah Rural Telecom Association ("URTA"), by and through its undersigned counsel, files these reply comments in response to initial comments submitted by other parties on the Commission's Notice of Proposed Rulemaking on Universal Service Fund ("USF") and Intercarrier Compensation reform ("NPRM") released February 9, 2011 and published March 2, 2011 in Volume 76, Number 41 of the Federal Register. URTA filed initial comments in these dockets April 18, 2011 in which it identified itself as an association of fourteen rural local exchange carriers who serve customers throughout rural Utah and receive high-cost universal service support.[1]

[1] The URTA members are All West Communications, Bear Lake Communications, Beehive Telephone, Carbon Emery Telcom, Central Utah Telephone, Direct Communications, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone Company, Skyline Telecom, South Central Communications, Strata Networks, and Union Telephone Company.

II. SUMMARY OF URTA'S INITIAL COMMENTS

In its initial comments, URTA urges the Commission to engage first in contribution reform. The base of contributors must be expanded. If broadband service providers are going to benefit from the use of the USF, their customers should be required to contribute to the fund. That will help achieve the Commission's goal to minimize the burden of the USF on end-use customers by spreading the burden across a larger base.

URTA also states that the Commission's proposed rule is inconsistent with its objectives of developing a robust market for broadband service, preserving voice service, and ensuring that rates for broadband and voice services be comparable throughout urban and rural America. The Commission's proposal to cap the USF and expand the supported services means there will be fewer funds available for providers receiving funds today. That will in turn jeopardize the providers' ability to maintain service and current and future investment. These providers entered into obligations on which they will face default if the Commission's rule becomes effective. If they survive, the prospects for private investment will dim and the cost of capital will increase significantly.

The Commission's proposal to replace rate-of-return regulation with price regulation will disincent investment in rural America. Investors invest if the outlook for the return of and a return on their investment is good. Rural areas suffer under price regulation and that has caused the so-called "rural-rural divide." Providers under price regulation have not invested in the rural parts of their service territories because they cannot recover their investment. Price regulation will harm service in rural America.

Reverse auctions will also harm service in rural America by underbidding the actual costs of providing service and jeopardizing established financing if auction periods fail to coincide with those obligations. URTA opposes reverse auctions.

URTA encourages the Commission to acknowledge that broadband service is available irrespective of the subscription rate in an area and to set supported targeted speeds uniformly between urban and rural areas. In addition, URTA supports the Commission's proposed elimination of the identical support rule. That rule has been an inefficient and wasteful use of the USF.

Finally, URTA rejects the Commission's effort to assert jurisdiction over intrastate access rates and believes doing so will only result in prolonged challenges to the Commission's final rule. URTA urges the Commission to resolve the issue of intercarrier compensation within the Commission's jurisdiction.

III. URTA'S POSITION AND RECOMMENDATIONS REMAIN THE SAME

After reviewing other parties' comments in this proceeding, URTA's position and recommendations remain the same. There are few surprises in the comments. Parties principally serving urban areas recommend wholesale change to the existing USF structure to enable them to use the fund without being shackled with responsibilities like carrier of last to serve high cost rural America. ("Urban Approach.") Many parties with public interest requirements or providers who are committed to serving customers in rural America express concern about the impact of the proposed rule and urge caution and deliberate, thoughtful action. ("Public Interest approach.")

AT&T's comments are representative of the Urban Approach. It encourages the Commission to scrap the existing program and obligations and virtually start from scratch. It

would have the Commission eliminate the carrier of last resort obligation as an anachronism of a different age and allow market competition to address customer needs. It rationalizes this position based on the availability of wireless service even though the Commission treats wireless service as complementary, not competitive with wireline service. Proponents of this approach fail to recognize that there is little or no wireline competition in high-cost areas to address customer needs. AT&T also proposes lower broadband speeds in high-cost areas to reduce demand on the USF and increased customer rates for voice and broadband services that will certainly result in lower subscription rates in these areas. That is the opposite effect the Commission seeks in this rulemaking. In addition, it proposes an inadequate transition period that will make it impossible for rural providers to meet their obligations under the current regime. Finally, it suggests that the Commission simply preempt the states to achieve the Commission's objectives, inviting resistance and litigation from the states.

URTA strongly opposes the Urban Approach. It will irreparably harm voice and broadband service in rural Utah and rural America and result in long-term litigation between the Commission and states and providers. Instead, URTA recommends that the Commission pursue the Public Interest approach advocated by, among others, the Public Service Commission of Utah, the Utah Division of Public Utilities, the Wyoming Public Service Commission, the Indiana Utility Regulatory Commission, and John Staurulakis, Inc.[2] There is even merit to several of the positions the State Members of the Federal State Joint Board on Universal Service take including enlarging the contributor base to the USF and recreating the concept of carrier of

[2] URTA generally agrees with the comments of these parties, though there may be specific issues included in the submissions with which URTA disagrees.

last resort in the form of a provider of last resort.[3] The upshot is that many regulators charged with public interest obligations and providers who have shown commitment to provide high-quality service to customers in high-cost areas are urging the Commission to take the Public Interest approach. Nothing in the initial comments in this proceeding has changed URTA's position.

VI. CONCLUSION

The Commission has proposed rulemaking that will negatively affect existing and future service in rural Utah and rural America. Pursuing the original NPRM or the Urban Approach advocated by several commenters in this proceeding will backfire and have the opposite effect of the Commission's stated objective to make robust, affordable broadband service universally available. Support for high-cost areas must be sufficient to reach that objective. The current USF program cannot just be eliminated. The impact on providers' existing financial obligations and the providers' ability to attract private capital would be too great. If the USF system is reformed, the transition period must be long enough to allow the providers to satisfy these obligations. Additionally, no matter what reforms the Commission implements, the concept of carrier of last resort must continue in some form to ensure that broadband services are universally available in high-cost areas and there will continue to be costs linked to that principle.

URTA is interested in working toward fair universal service reform, but the NPRM and the Urban Approach do not achieve that. URTA continues to recommend that the Commission

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[3] Many of the concepts the State Members propose are good, but URTA rejects some of the proposed details as harmful to service in rural Utah and rural America. Their method for calculating high-cost support would be detrimental to providers and their customers. Establishing a $1,200 per line limit is inadequate. Setting the rate of return at 8.5% is arbitrary and requires more analysis. Penalizing states for non-conformance rather than providing incentives to conform is unacceptable.

step back and start over if necessary and consider carefully the comments of those with a commitment to serving the rural high-cost areas of the country.

Respectfully submitted this 23rd day of May, 2011.

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