

**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
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109

REPLY COMMENTS OF SOUTHERNLINC WIRELESS

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SUMMARY

As a regional wireless carrier that focuses primarily on rural markets, SouthernLINC Wireless is uniquely impacted by universal service reform, both as a competitive Eligible Telecommunications Carrier (“CETC”) itself and as a competitor to other universal service support recipients. SouthernLINC Wireless agrees with the vast majority of commenting parties that universal reform is necessary, but the reforms proposed in the instant Notice of Proposed Rulemaking (“NPRM”) are fundamentally inconsistent with the requirements of the Communications Act of 1934, as amended, (the “Act”) in a way that would harm both consumers in rural, insular and high-cost areas and the carriers, like SouthernLINC Wireless, that serve them. SouthernLINC Wireless, therefore, lends its voice to the chorus opposing the reforms proposed in the NPRM and calls for the Commission to focus instead solely on competitively- and technologically-neutral reforms that are firmly grounded in the Act.

Adoption of the reforms proposed in the NPRM as currently written would result in the wholesale dismantling of competition throughout rural America. Indeed, the record demonstrates that the proposed reforms would create even larger problems than the Commission seeks to cure, harming the local and regional carriers like SouthernLINC Wireless that focus on serving rural consumers and businesses in a manner simply not provided by many larger carriers. Making it even more difficult for local and regional carriers like SouthernLINC Wireless to compete on a level playing field ultimately would harm all consumers, particularly during this era of consolidation when competitive alternatives are more important than ever.

The concept upon which the proposed reforms are based -- the “unserved” area -- is a myth. The Commission’s proposal to phase out 100% of universal support to CETCs and use the funds instead to support only one carrier per “unserved” area -- areas where no services with speeds faster than 4 Mbps/1 Mbps actual service speeds are currently available -- would have a devastating impact on carriers serving the area with slightly slower speeds. Not only would

CETCs like SouthernLINC Wireless lose all of the support that is necessary to provide reasonably comparable services at reasonably comparable rates in rural, insular and high-cost areas, they also would be forced to compete with a single subsidized competitor that offers a faster broadband service. This double-whammy would make it much more difficult for all other carriers to upgrade their networks to faster broadband speeds than they offer today, if they could continue to provide service at all.

When confronted with the devastating impact that the Commission's proposal would have on competition in rural America, Commission staff has repeatedly explained in meetings and panels on universal service reform that "one provider in 'unserved' areas is better than none," as if the "unserved" areas are not served by any carriers today. In reality, however, most of the areas that meet the definition of "unserved" because no carriers currently offer broadband speeds of 4 Mbps/1 Mbps are served by multiple wireless providers offering broadband speeds that are less than 4 Mbps/1 Mbps. Nothing in the record suggests that consumers in these areas would prefer a single provider offering faster speeds over enjoying a choice among multiple providers offering lower speeds today and that will be upgraded during the foreseeable future. As such, the Commission's proposal represents drastic governmental interference in the market in a way that makes the development, or even continued existence, of competition in subsidized areas all but impossible. The presence of multiple providers in these areas today demonstrates both that such drastic interference is not necessary and that the proposal is fundamentally inconsistent with the pro-competition mandates of the Act.

SouthernLINC Wireless and other parties have set forth alternative reform frameworks that strive to achieve the policy objective of broadband deployment while at the same time remaining true to the Act. These proposals illustrate that the choice between either accepting the Commission's broadband-centric vision of reform or idling indefinitely in the inadequate status

quo is demonstrably false. Unfortunately, the Commission has neglected to seriously explore any of these promising alternative proposals that foster broadband deployment within the framework of the Act as it exists today. Tellingly, in the fourteen months since the National Broadband Plan (“NBP”) was released, there have been no truly substantive modifications to the Commission’s universal service approach. Indeed, the structural framework for universal service reform remains largely the same as the proposals considered in 2008, although the Commission now seeks to justify the proposed reforms on the basis of their inclusion in the NBP. At this point, the Commission could not adopt any of these alternatives within its self-imposed reform deadline, which provides further confirmation that the Commission has unlawfully ignored the serious criticisms of its proposals and failed to seriously consider any of the alternatives proposed by parties participating in this proceeding.

Rather than rushing to meet an arbitrary, self-imposed deadline, the Commission should seriously consider the alternative reform proposals on the record that are designed to achieve the Act’s universal service goals in a manner that is consistent with the requirements of the Act. Taking the time necessary to get universal service reform right is far preferable than the currently proposed “deal with the devil” to buy marginally faster broadband speeds and quicker broadband deployment in a manner that directly contravenes the Act and threatens the survival of existing networks in rural America.

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REPLY COMMENTS OF SOUTHERNLINC WIRELESS

Southern Communications Services, Inc. d/b/a SouthernLINC Wireless (“SouthernLINC Wireless”), by its attorneys, hereby replies to issues raised by commenting parties in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking (“NPRM”) released by the Commission that sets forth proposed reforms to the high-cost universal service fund (“USF”) and the existing intercarrier compensation (“ICC”) regime.¹ SouthernLINC Wireless submits these

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*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011).

reply comments to supplement the initial and reply comments of the Universal Service for America Coalition, of which SouthernLINC Wireless is a member.²

The record in this proceeding reflects widespread agreement that comprehensive universal service reform is necessary, but the parties diverge radically with respect to the replacement distribution mechanism. The comments largely adhere to the NPRM's proposals, which seek to implement the reform recommendations set forth in the National Broadband Plan ("NBP") released over a year ago. However, as many parties have pointed out, the Communications Act of 1934, as amended (the "Act") governs the scope and structure of the Commission's universal service programs, not the NBP. As such, the Commission can only implement programs based upon the NBP if those policies are fully consistent with the letter and the spirit of the Act as it stands today. Unfortunately, the approach set forth in the NBP of leading the country to faster broadband speeds is fundamentally inconsistent with the Act's universal service mandate, which requires that the Commission follow the substantial majority of residential consumers in determining the level of services to support rather than leading anyone to services that the Commission believes they should have.

In light of the public commitment by all five Commissioners to issue a universal service reform order "within a few months"³ despite the absence of a statutorily sound replacement distribution mechanism for the high-cost fund, the Commission seems poised to adopt a proposal that does not comport with the Act and will not survive the inevitable legal challenges. Unless the Commission is interested solely in short-term political gain, rushing now to reform measures

² For the sake of brevity, SouthernLINC Wireless does not repeat here all of the points made in the initial and reply comments of the USA Coalition, which SouthernLINC Wireless hereby incorporates in their entirety.

³ Joint Statement of Commissioners Julius Genachowski, Michael Copps, Robert McDowell, Mignon Clyburn, and Meredith Baker, *Making Universal Service and Inter-carrier Compensation Reform Happen* (Mar. 15, 2011), available at: <http://reboot.fcc.gov/blog?entryId=1335527>.

that lack a sound legal foundation and that would substantially harm consumers over the long-term will accomplish nothing but delaying the adoption of real reform. Instead, the Commission should base its reform efforts on the Act -- and seek to remove the obstacles that slow the deployment of affordable broadband services throughout the Nation -- rather than wasting resources on overly ambitious proposals which would harm consumers who work and live in rural areas and the local and regional carriers who focus primarily on serving the needs of these communities.

I. THE “UNSERVED AREA” IS A MYTH THAT DOES NOT ACCOUNT FOR EXISTING COMPETITION AT SUB-4 MBPS ACTUAL DOWNLOAD SPEEDS

The centerpiece of the Commission’s universal service reform proposal is the replacement of all existing high cost support with a mechanism which limits support to only a single provider in each area that is currently “unserved” by actual 4 Mbps download and 1 Mbps upload broadband speeds (“NBP-Level Broadband”). Thus, as pointed out by RTG, despite the Commission’s empty assurances that it is “not proposing to eliminate universal service support for communications services in high-cost areas of the country,” the NPRM clearly calls for support to be stripped from wireless carriers like SouthernLINC Wireless in the “near term” and eventually from *all* carriers who do not provide NBP-Level Broadband and who do not win the single-winner reverse auction for that supported area.⁴

A) Many “Unserved” Areas Are in Fact Served by Telecommunications Providers Who Would Be Harmed by the Commission’s Proposals

As many commenting parties have pointed out, there are several major flaws inherent in the framework and concept of the Commission’s reform proposals. First and foremost, the concept of an “unserved” area is a myth that does not account for the competition in the market for sub NBP-Level Broadband services that exist in the area. In the words of the USA Coalition:

⁴ Rural Telecommunications Group, Inc. Comments at 2-3 (“RTG Comments”).

[B]ecause support would be withdrawn from all telecommunications services that do not meet the NBP speed target, existing networks that are sub-4 Mbps -- including those that offer up to 3 Mbps -- would lose funding that may still be needed in order to preserve current service coverage, destroying competition not only for the supported broadband service, but for a host of other services as well, including most wireless telecommunications services, thereby depriving the residents of supported areas the service options available to those in urban areas.⁵

Indeed, as RTG explains, if support is eliminated “some RTG members will not be able to continue to operate beyond a few months. RTG’s members will also not be able to further invest in their current 2G and 2.5G networks to build 3G and beyond. Other RTG members who have already built 3G networks will not be able to advance those 3G networks[.]”⁶ Accordingly, many, if not most, of the consumers who currently enjoy the benefits of competition among multiple providers of mobile voice and data services would lose those benefits and their right to choose if they happen to live in an area that meets the proposed definition of “unserved,” regardless of whether they need, or even want, mobile broadband services that exceed the Commission’s arbitrary 4 Mbps download - 1 Mbps upload actual speed threshold. As discussed below, carriers like SouthernLINC Wireless play a critical role in the nation’s communications ecosystem, so the Commission should not make it much more difficult, if not impossible, for them to compete with other carriers serving their area, which benefits all consumers, not just those who live in the supported service area.

B) Local and Regional Carriers Like SouthernLINC Wireless Who Currently Provide Wireless Services at Sub-4 Mbps Speeds Play a Critical Role in the Nation’s Communications Network

The importance of local and regional carriers like SouthernLINC Wireless to the rural communities they serve should not be underestimated. SouthernLINC Wireless, a subsidiary of

⁵ USA Coalition Comments at 10.

⁶ RTG Comments at 3.

Southern Company, operates an 800 MHz digital radio system designed to meet the operational requirements of Southern Company's electric utility subsidiaries. To provide the level of service required by its electric utility affiliates, SouthernLINC Wireless's network was designed and built to withstand the varied weather conditions of the Southeast, which includes everything from ice storms to hurricanes. The SouthernLINC Wireless network supports dispatch, interconnected voice, Internet access, and data transmission services that SouthernLINC Wireless provides over mobile phone handsets throughout a service footprint that includes most of the states of Alabama and Georgia, the panhandle of Florida, and southeast Mississippi, with a particular emphasis on rural communities.

Since its inception in 1996, SouthernLINC Wireless has focused on serving rural areas, providing wireless coverage to small towns like Opp, Alabama; Claxton, Georgia; Frink, Florida, and Nacaise, Mississippi. As a result, SouthernLINC Wireless offers the most comprehensive geographic coverage of any mobile wireless provider in Alabama and Georgia with a network that serves rural areas located far from the major interstates and highways where most of the other carriers choose to focus.⁷ Many hospitals, public safety entities and emergency management agencies in these rural areas have chosen SouthernLINC Wireless as their carrier due to the coverage and rugged design of SouthernLINC Wireless network, not to mention its attractive service offerings. By actively seeking and serving customers in rural areas, SouthernLINC Wireless is furthering the Commission's goals of bringing wireless service to

⁷ *Accord* MTPCS, LLC d/b/a Cellular One Comments at 5 (“While a large carrier may build in rural states only so as to meet the needs of its urban consumers who happen to be traveling through such states – covering cities and highways – smaller carriers tend to build for local, rural consumers because they do not serve large urban markets.”) (“Cellular One Comments”).

rural areas and ensuring that these areas remain connected during national emergencies and natural disasters.⁸

As Commissioner Clyburn noted in a speech given last month, “[s]o many people depend—and I need to stress that word—*depend* on their wireless phones in their everyday lives.”⁹ This statement is equally true of consumers in rural areas as in urban areas. However, as several commenters have pointed out, there appears to be little room for carriers like SouthernLINC Wireless in the Commission’s vision of reform.¹⁰ In order to continue providing high quality wireless services to underserved rural areas while ensuring that communications will be available throughout the recovery period after disasters, SouthernLINC Wireless must continue to make significant investments to maintain and upgrade its network. The universal service support that SouthernLINC Wireless receives as a CETC enables significant improvements in coverage and sufficient redundancy in rural areas with low population densities. As such, the universal service fund plays a crucial role in ensuring that consumers who live and work in the rural and high-cost areas that SouthernLINC Wireless serves have access to affordable services that are reasonably comparable to those available in urban areas.

⁸ See Remarks of Robert G. Dawson, CEO of SouthernLINC Wireless, *FCC Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks* (Jan. 30, 2006); see also Wireless Week, *News Briefs for September 1, 2005*, available at: <http://www.wirelessweek.com/Archives/2005/09/News-Briefs-for-September-1,-2005/> (“SouthernLINC Wireless reports that as of this morning, 98 percent of its sites are up and running in Alabama, Georgia, Florida and Mississippi, which is providing communications capabilities for emergency and government personnel, as well as individual customers.”).

⁹ Remarks of Commissioner Mignon L. Clyburn, “Robust Competition in the Wireless Industry is the Key to a Successful Marketplace,” National Conference for Media Reform (Apr. 8, 2011) (emphasis in original); *accord* Cellular One Comments at 6.

¹⁰ Cellular One Comments at 9; United State Cellular Corporation Comments at 7 (“US Cellular Comments”); RTG Comments at 5.

C) Under the CAF, Carriers Like SouthernLINC Wireless Will Be Placed At a Disadvantage to Subsidized Competitors

The experience of SouthernLINC Wireless illustrates how the NBP's reform proposals would harm consumers who live and work in rural areas and the local and regional carriers who focus on serving their needs. SouthernLINC Wireless began commercial operations in 1996, but did not apply to become a CETC until September 14, 2004. Despite the Commission's commitment to resolve all ETC designation requests within six months of their filing, the agency did not act upon SouthernLINC Wireless' request for ETC designation until the FCC imposed the interim cap on CETC funding on May 1, 2008.

Until the Commission designated SouthernLINC Wireless as a CETC in 2008, the company was forced to compete with carriers who were receiving universal service subsidies that were unavailable to SouthernLINC Wireless, including carriers who do not focus primarily on the communities SouthernLINC Wireless serves. As a result, SouthernLINC Wireless was placed at an unfair competitive advantage in its home service area for over six years, which made it more difficult for SouthernLINC Wireless to improve its network in the most rural of areas, including areas that were not served by any other mobile service providers. Only after the Commission designated SouthernLINC Wireless as a CETC was the company able to compete fairly on a level playing field with other CETCs to serve consumers who live and work within its service area, although the "interim" cap on CETC funding continues to place SouthernLINC Wireless and other CETCs at a competitive disadvantage to the incumbent local exchange carriers ("ILECs") with which they compete.

The universal service reform proposals the Commission is now considering would again create the type of competitive inequities that harm carriers like SouthernLINC Wireless, US

Cellular,¹¹ Cellular One,¹² and the members of RTG,¹³ to the detriment of consumers who live and work in rural America. As these parties have pointed out, it will be difficult, if not impossible, for existing carriers to deploy additional facilities to serve, or continue to serve, areas where a competitor is receiving subsidies from the Connect America Fund (“CAF”) that are unavailable to any other carrier. As pointed out by several parties, this harm will be compounded by the elimination of current support, which will make it difficult to cover the operating costs of serving some of the most rural areas with low population densities.¹⁴ This scenario would play out across the country, possibly driving some local and regional carriers out of the market altogether, which would only increase the concentration of service providers in rural areas to the detriment of consumers who live and work there.¹⁵

The harm to carriers like SouthernLINC Wireless and to all consumers, not just those living the rural areas they serve, would be particularly pronounced in this era of massive industry consolidation.¹⁶ As noted by MetroPCS Communications, assuming that the AT&T - T-Mobile merger is approved, the acquisition “will reduce the number of national wireless carriers to

¹¹ US Cellular Comments at 7 (“proposed phase-down will slow or stall altogether the efforts of wireless carriers to bring their mobile broadband networks to rural and high-cost areas.”).

¹² Cellular One Comments at 7 (“The FCC should maintain support where population density and income levels are low. Such areas are the least likely to receive attention from carriers not receiving support, and the most likely to be left behind in the transition to broadband without sufficient support.”).

¹³ RTG Comments at 7 (“Simply put, in virtually every case, a loss of high-cost support will make running a high-cost, rural mobile network unprofitable, and therefore unsustainable.”).

¹⁴ See e.g., Rural Cellular Association Comments at 15 (“the *NPRM*’s proposal to limit support to a single provider per service area in the second phase of the CAF would threaten irreparable harm to wireless carriers and to consumers.”) (“RCA Comments”); RTG Comments at 3 (“If [existing] support is eliminated, some RTG members will not be able to continue to operate beyond a few months.”).

¹⁵ Accord RCA Comments at 16 (“providing support only for one provider inevitably would result in the large-scale exclusion of wireless carriers and would deprive consumers of the many benefits of wireless services.”).

¹⁶ USA Coalition Comments at 3.

three.”¹⁷ This is especially troubling, as pointed out by RCA, since AT&T has gone on record to state that it does not even aspire to deliver 4G service to the remaining 5 percent of Americans—in other words, areas comprising a substantial portion of rural America.”¹⁸

As a smaller and smaller group of carriers consolidate greater and greater market share through acquisitions, any policy that makes it far easier for larger carriers to gain an even more substantial competitive advantage -- like single-winner reverse auctions -- should be rejected outright. Indeed, as the Commission has itself recognized, a less-competitive marketplace is likely to produce negative effects, including higher prices, service quality degradation, and less innovation, consequences that highlight the importance of ensuring that Commission policies and regulations do not stifle competition.¹⁹ If there were ever a time when rural-focused carriers like SouthernLINC Wireless are needed, it is now. Yet the Commission’s proposals appear poised to destroy what is left of the competitive landscape in wireless telecommunications and leave the rural consumers, who depend upon reliable and competitive services, holding the bag.

II. COMMENTERS AGREE THAT ANY UNIVERSAL SERVICE REFORM POLICY MUST BE PRIMARILY GUIDED BY THE ACT, NOT THE NBP

While the NBP and the NPRM’s broadband policies are certainly laudable, many parties have noted that the core provisions of the NPRM depart from the Act’s binding mandates.²⁰ As T-Mobile points out, the Commission has itself recognized that USF reform efforts “must, of

¹⁷ MetroPCS Communications, Inc. Comments at 4.

¹⁸ RCA Comments at 20.

¹⁹ USA Coalition Comments at 14, citing *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile Wireless, including Commercial Mobile Services*, WT Docket No. 09-66, ¶ 74.

²⁰ See e.g., Alexicon Telecommunications Consulting Comments at 14; Cellular South, Inc. Comments at 1 (“Cellular South Comments”); RTG Comments at 2; George Mason University Mercatus Center Comments at 2 (“Mercatus Center Comments”); General Communications, Inc. Comments at 1-2 (“GCI Comments”); T-Mobile USA, Inc. Comments at 6 (“T-Mobile Comments”).

course, be guided in the first instance by the Act.”²¹ Yet, despite this feint, the Commission pays only lip service to its statutory mandate and instead bases its proposed reforms primarily upon the non-binding recommendations of the NBP.

As recognized by several parties, when Congress directed the FCC to develop a national broadband plan in the America Recovery and Reinvestment Act, Congress did not grant the Commission any independent authority to implement that plan and, therefore, the resulting NBP does not carry the force of law.²² As such, even if the NBP reflects policy objectives that *should* be implemented, the Commission must recognize that it may implement such policies only to the extent that those policies are fully consistent with the letter and the spirit of the Act. Yet, as multiple parties have noted, and as discussed below, the core provisions of the NPRM are plainly and impermissibly inconsistent with the binding mandates of the Act.

III. THE FCC SHOULD NOT FOCUS SUPPORT SOLELY ON A SERVICE THAT HAS YET TO BE ADOPTED BY A SUBSTANTIAL MAJORITY OF RESIDENTIAL CONSUMERS

As pointed out by AT&T, the FCC’s proposed policy of supporting only NBP-Level Broadband is inconsistent with the Act’s requirement that universal service support be extended only to services that “have, through the operation of market choices by customers, been subscribed to by a *substantial majority* of residential consumers.”²³ As the statute makes clear, the Joint Board and the Commission “*shall*” analyze what services *have already been adopted by a substantial majority* in order to determine that such a service should be supported by universal service mechanisms.²⁴ As described in detail by the USA Coalition, the statute thus fosters the evolution of universal service support mechanisms in a manner designed to *follow* the

²¹ T-Mobile Comments at 6, quoting NPRM, ¶ 77 (internal quotations omitted).

²² See e.g., Cellular South Comment at 8.

²³ AT&T Comments at 93, quoting 47 U.S.C. § 254(c)(1) (emphasis added); Mercatus Center Comments at 3; USA Coalition Comments at 6.

²⁴ Accord USA Coalition Comments at 6.

market after the Commission and the Joint Board identify services to be supported based upon a factual market analysis. Here, however, the FCC’s approach can be characterized as *pushing* the market towards an aspirational goal of universal adoption of even higher speed broadband services; services that have yet to be subscribed to by the required substantial majority of residential customers.²⁵ However, the Act clearly requires that actual residential consumers, not the FCC, be the driving force behind what services are supported by universal service mechanisms.

Several parties argue that broadband has already been adopted by a substantial majority of residential consumers.²⁶ However, in the context of the NBP-Level Broadband, these analyses are simply wrong. Both the Communications Workers of America and the Greenlining Institute baldly state that over sixty percent of Americans subscribe to broadband internet services.²⁷ While that may be true of services capable of delivering more modest download speeds, the extent to which those services have been subscribed to constitutes a radically different question than whether a substantial majority of residential consumers have adopted NBP-Level Broadband. Indeed, as pointed out by AT&T, the USA Coalition, and even Commissioner McDowell, the Commission’s own recent analysis inarguably demonstrates that NBP-Level Broadband *does not* satisfy the Act’s substantial majority adoption test and, therefore, should not be eligible to be added to the list of services supported by universal service mechanisms.²⁸

²⁵ USA Coalition Comments at 6.

²⁶ *See e.g.*, Greenlining Institute Comments at 4; Communications Workers of America Comments at 6; NECA, NTCA, OPASTCO and WTA Comments at 83 (“the substantial majority of American households and businesses in urban and suburban areas continue to subscribe to both fixed and mobile voice and broadband services.”).

²⁷ Communications Workers of America Comments at 6 (“Internet access...[is] subscribed to by a substantial majority of residential customers (68 percent)”; Greenlining Institute Comments at 4 (“More than five out of eight Americans (65%) now connect to the internet with a broadband connection.”).

²⁸ AT&T Comments at 93; *accord* USA Coalition Comments at 6-7; Dissenting Statement of Commissioner Robert McDowell, *Seventh Broadband Progress Report and Order on*

The “substantial majority” adoption test set forth in the Act serves a number of important functions that should not be cavalierly tossed aside. First, the test provides an objective measure of consumer demand for a given service. Comments submitted by the Mercatus Center at George Mason University offer this particularly acute insight: many consumers live in areas where higher download speeds are *available*; yet, consumers in those areas choose to subscribe to services with speeds slower than could be obtained.²⁹ Thus, the substantial majority adoption test ensures that actual consumers evince a sufficient demand for a particular service before universal service funds are expended to support the availability of that service. This process ensures that only critical services are supported. Further, the substantial adoption test has the practical effect of ensuring that only services that have been widely adopted are supported, thereby keeping fund size to a manageable level, reducing the contribution burden on consumers in the process.³⁰ Finally, it minimizes the interference by the government in picking “winners” and “losers” in the marketplace based, in this case, on an arbitrary technical parameter.³¹

The wisdom of the Act’s framework of following consumers rather than leading them is illustrated by the conundrum that the Commission faces as it tries to set the speed threshold for its proposed reform framework. Any choice it makes will be arbitrary, with resulting negative consequences whether the threshold is too high or too low. If the Commission sets the threshold too high, too many areas across the country will be eligible for support, and fund size will

Reconsideration (May 20, 2011) (“Over half of all high-speed connections are below 3 Mbps downstream, and the Commission’s surveys find that consumers are happy with both their existing broadband service and speed.”). *See also* Mercatus Center Comments at 3 (“We also find that a substantial majority of residential customers do not subscribe to 4 Mbps/1 Mbps broadband.”).

²⁹ Mercatus Center Comments at 7.

³⁰ *Id.* at 7; AT&T Comments at 94.

³¹ *Accord* Dissenting Statement of Commissioner Robert McDowell, *Seventh Broadband Progress Report and Order on Reconsideration* (May 20, 2011) (“The Commission should never have mandated a one-size-fits-all definition of broadband. Regulators must provide a more complete picture of broadband offerings at different speed thresholds and act cautiously to avoid industry-shaping and market-distortive decisions.”).

balloon, but if the threshold is too low, the subsidized speeds could well be outdated by the time the winner's network is deployed, which would be disastrous for consumers living in the affected areas. Indeed, a threshold that is too low could actually slow broadband deployment by discouraging everyone except the winner of the reverse auction from investing in the area and encouraging the winner to deploy services with speeds no greater than the threshold itself even if services with faster speeds are being deployed in other areas.

The Commission has continued to focus myopically on pushing the aspirational speed targets identified in the NBP, thereby usurping the role of the market in selecting the services that should be supported by universal service mechanisms. The Commission cannot simply ignore the statutory requirement that services be added to the supported services list *only after* they have been adopted by a substantial majority of residential consumers. The Commission unquestionably has failed to undertake this required analysis, instead justifying the support of NBP-Level Broadband on the grounds that such support serves the public interest.³² But, no matter how desirable the proposed goal may be, there can be no doubt that the Act requires more. Adding NBP-Level Broadband to the list of supported services without undertaking the mandatory factual analysis in coordination with the Joint Board would be a textbook example of arbitrary and capricious rulemaking.

IV. SINGLE WINNER REVERSE AUCTIONS REMAIN INCONSISTENT WITH THE ACT'S REQUIREMENTS THAT UNIVERSAL SERVICE PROGRAMS BE COMPETITIVELY NEUTRAL

In another telling example of the Commission's myopic focus on implementing the recommendations of the NBP "within months"³³ to the exclusion of all other alternative plans is

³² NPRM at ¶¶ 106-109.

³³ Joint Statement of Commissioners Julius Genachowski, Michael Copps, Robert McDowell, Mignon Clyburn, and Meredith Baker, *Making Universal Service and Intercarrier Compensation Reform Happen* (Mar. 15, 2011), available at:

the FCC’s continued support of a single winner reverse auction distribution mechanism in the face of numerous statute- and policy-based objections. Indeed, the Commission’s consideration of the use of reverse auctions to distribute universal service funds dates back to 2008, and the same objections that were raised then continue to apply with equal force.³⁴ The reverse auction concept was dusted off and again trotted out in last April’s USF NOI & NPRM,³⁵ and the FCC once again received concerned comments from a wide range of industry members that its proposed reverse auction mechanism: (i) was inconsistent with the Act;³⁶ (ii) would recreate a monopoly system that would require significant oversight and effectively preclude competition;³⁷ and (iii) raised serious questions regarding a supported carrier’s ongoing viability and performance.³⁸

Nearly a year later, these same questions remain unaddressed. Rather than heed the calls to address these valid concerns, the FCC has held fast to the reverse auction proposal and has signaled its intent to follow through on this recommendation, regardless of whether the proposed

<http://reboot.fcc.gov/blog?entryId=1335527> (“Once the record is complete in late May, we look forward to moving to an Order within a few months”).

³⁴ See High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1495 (2008) (“Reverse Auctions Notice”); see also Statement of Michael J. Copps, Dissenting in Part [on the Reverse Auctions Notice], January 29, 2008 (“this purportedly market-based approach strikes me as hyper-regulatory. For these reasons, I must dissent from the NPRM’s tentative conclusion that the Commission should develop an auction mechanism to determine high-cost support.”).

³⁵ *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, GN Docket No. 09-51, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657 at ¶¶ 19–20 (2010) (“USF Reform NOI & NPRM”)

³⁶ TCA USF NOI & NPRM Comments at 17 (filed July 12, 2010) (“[A]llocating USF based upon the results of a reverse auction would not comply with the statutory requirement for specific, predictable and sufficient support mechanisms to preserve and advance universal service.”); RCA USF NOI & NPRM Comments at 14 (filed July 12, 2010).

³⁷ CTIA USF NOI & NPRM Comments at 9, n. 13. (filed July 12, 2010) at 29; Alaska Communications Systems USF NOI & NPRM Comments at 7 (filed July 12, 2010) at 7; Sprint USF NOI & NPRM Comments (filed July 12, 2010)

³⁸ NECA USF NOI & NPRM Comments at 25 (filed July 12, 2010); accord SouthernLINC Wireless USF NOI & NPRM Reply Comments at 21-25 (filed Aug. 11, 2010).

policy comports with the Act's requirements that universal service support be "specific, predictable, and sufficient" to provide rural and high costs areas with services that are reasonably comparable to those services available in urban areas at reasonably comparable rates.³⁹

Once again in this round of comments commenting parties have echoed the concerns that have been raised over the past several years: (i) the Commission lacks the statutory authority to adopt a single winner reverse auction,⁴⁰ and (ii) that even assuming that the Commission possessed the authority to adopt a single winner reverse auction, that such a decision would constitute bad policy.⁴¹ While the policy-based objections to single winner reverse auctions have been described at length in prior filings by SouthernLINC Wireless,⁴² the USA Coalition⁴³ and multiple other parties in this and preceding comment cycles,⁴⁴ it bears repeating once again that a single winner reverse auction distribution mechanism would be fundamentally inconsistent with the mandate that universal service support mechanisms be competitively neutral.⁴⁵

³⁹ 47 U.S.C. § 254(b).

⁴⁰ US Cellular Comments at 21; Cellular One Comments at 36; NECA Comments at 80-82; USA Coalition Comments at 8-10.

⁴¹ CTIA Comments at 13-14 ("Before the Commission prematurely gravitates toward a single methodology for determining and distributing all support nationwide, CTIA believes that the FCC should conduct trials of different types of market-based mechanisms"); CenturyLink Comments at 32 ("The potentially harmful impacts of a reverse auction on existing investment, future investment, and service quality, should discourage adopting this approach to distribution of high-cost support in existing service areas."); RTG Comments at 14 (RTG believes reverse auctions will result in second-class service for wireless consumers in high-cost, rural areas. Reverse auctions create an incentive for anticompetitive behavior by the largest carriers.").

⁴² SouthernLINC Wireless USF NOI & NPRM Reply Comments at 21-25 (filed Aug. 11, 2010).

⁴³ USA Coalition USF NOI & NPRM Comments at 34-39 (filed July 12, 2010) (discussing the policy objections to the FCC's reverse auction proposal).

⁴⁴ See e.g., RTG Comments at 14-15; Rural Cellular Association Comments at 17-18; TCA Comments at 9; NASUCA Comments at 84 ("reverse auctions are fundamentally flawed and cannot ensure that competitive bids will even be received in any particular area."); USA Coalition USF NOI & NPRM Comments at 34-41.

⁴⁵ *Accord* US Cellular Comments at 23 ("the Commission's reverse auction proposal extend[] beyond its delegated authority under the Act"); *accord* Allband Communications

Indeed, only through a series of disingenuous mental gymnastics could the monopolistic policy envisioned in the NPRM be deemed “competitively neutral.” As explained by US Cellular, the Commission’s reverse auction proposals “is not competitively neutral because, instead of encouraging competitive entry and the natural price competition that comes with it, the proposed auction mechanism would install a government-selected monopoly service provider in each geographic service area.”⁴⁶ Or, in the words of RCA, “[t]his proposal appears superficially competitively neutral by making wireline and wireless carriers alike eligible to bid. In reality, however, a single-winner approach would most likely undermine competition, rather than promote it.”⁴⁷ As Cellular One similarly explains, reverse auctions “by design, would depress, rather than promote, competitive entry in areas receiving universal service support. Such a result would directly contravene the mandate of the 1996 Act to promote competition in the local exchange marketplace.”⁴⁸ For these reasons, the Commission should reject any proposal that would effectively contravene the mandate of competitive neutrality, especially in this era of rapid industry consolidation. Competitive neutrality requires more than the mere ability of multiple parties to compete for a subsidy. A competitively neutral mechanism requires a system where competitors *actually* compete.⁴⁹

The Commission’s proposed universal service framework is also fundamentally inconsistent with the spirit and the letter of the Telecommunications Act of 1996, which is

Cooperative Comments at 21 (“The Commission has not cited applicable authority under the Act for the largely unexplained reverse auction.”).

⁴⁶ US Cellular Comments at 16.

⁴⁷ RCA Comments at 17; *accord* Earthlink, Inc. Comments at 17 (“EarthLink disagrees with the Commission’s statement that its ‘proposal to support broadband is competitively neutral because it will not unfairly advantage one provider over another.’”).

⁴⁸ Cellular One Comments at 38.

⁴⁹ USA Coalition USF NOI & NPRM Comments at 35 (“the proper inquiry is whether the effect of the legal requirement, rather than the method imposed, is competitively neutral.”) (filed July 12, 2010).

designed to facilitate competition, as a whole. For example, the Act requires the Commission to “encourage deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that *promote competition in the local telecommunications market*, or other regulating methods that *remove barriers to infrastructure investment*.”⁵⁰ If the Commission determines that advanced telecommunications capabilities are not being deployed to all Americans in a reasonable and timely fashion, the Act requires the Commission to “take immediate access to accelerate deployment of such capability *by removing barriers to infrastructure investment and by promoting competition in the telecommunications market*.”⁵¹ This explicit statutory mandate demonstrates unequivocally that the proposed reforms -- which both destroy competition and create additional barriers to infrastructure investment -- are fundamentally inconsistent with Congressional intent for broadband deployment.

V. THE DISPARATE PHASE-DOWN PERIODS FOR EXISTING HIGH-COST SUPPORT AND TRANSITION PROPOSALS BASED ON CARRIER TYPE ARE NOT COMPETITIVELY NEUTRAL

As many commenters pointed out, several of the NPRM’s proposals contradict the Commission’s requirement that universal service support mechanisms and rules should “neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor one technology or another” under Section 254(b)(7) of the Act.⁵² In particular, the proposed accelerated phase-down of CETC support, the proposed “keep-whole” revenue replacement

⁵⁰ 47 U.S.C. §706(a) (emphasis added).

⁵¹ *Id.*

⁵² Cellular One Comments at 5-6; T-Mobile Comments at 6; CTIA Comments at 23; TIA Comments at 8; *accord Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, 8801 (1997).

proposals for ILECs, and the ILEC’s “right of first refusal” to become the CAF recipient in its service area are patently discriminatory and should be rejected.

A) Any Phase-Downs of Existing Support Should Be On Identical Timelines For All Types of Carriers

Several parties have demonstrated that the Commission’s failure to transition all parties to a new CAF support mechanisms on the same terms and timeline would not be competitively neutral in contravention of the statutory principle of competitive neutrality adopted by the FCC pursuant to Section 254(b)(7) of the Act.⁵³ As argued by T-Mobile, “[n]o class of providers should receive preferential treatment in the phase-out of legacy high-cost support, nor in the allocation of CAF support. Any such preference... violate[s] the principles of competitive and technological neutrality.”⁵⁴ Indeed, it is difficult to conceive of any scenario in which the five-year phase-out of existing funding for CETCs would be considered competitively neutral when a longer transition period is being considered for other carriers based solely on the carriers’ competitive status. As argued by the USA Coalition, the Commission should instead should create a single replacement fund that applies to all carriers -- rather than multiple, piecemeal funds or funding components that apply in a disparate fashion -- and provide a long and predictable glide path to ensure regulatory certainty through the transition period and beyond for all carriers.⁵⁵

B) The FCC Should Reject the Right of First Refusal Proposal for ILECs

The NPRM proposal that would guarantee certain ILECs the right of first refusal (“ROFR”) to become the CAF recipient in its service area has received considerable and justified

⁵³ See e.g., US Cellular Comments at 60; Cellular One Comments at 9; T-Mobile Comments at 9.

⁵⁴ T-Mobile Comments at 9.

⁵⁵ USA Coalition Comments at 21.

criticism.⁵⁶ In the words of CTIA, “giving the wireline incumbent the option of becoming the only CAF recipient in its service area would flatly contradict the policies of competitive and technological neutrality.”⁵⁷ T-Mobile put it more bluntly, calling the ROFR proposal “blatant favoritism.”⁵⁸ However the policy is characterized, affording a ROFR to a certain subset of carriers based upon their competitive status is the antithesis of the Commission’s requirement that universal service support mechanisms and rules should “neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor one technology or another.”⁵⁹ While it is not surprising that the carriers who would most benefit from such a preference would overwhelmingly favor the ROFR proposal, there has been no support offered by any such party that could plausibly justify such preferential treatment in a manner consistent with the Act.

C) No Carriers Should Be Kept “Whole” During the Transition to the CAF

The Commission similarly should reject any “revenue replacement” or “keep-whole” policy proposal for the nation’s ILECs. In the words of Sprint, “[t]here is no statute that guarantees LECs a steady revenue stream, and it would be counter-productive to adopt a mechanism that would allow LECs to ‘recover’ (or, more accurately, retain), on a dollar-for-dollar basis, current revenues that may be reduced through the reform of the USF.”⁶⁰ Indeed, as argued by PAETEC, “[a]s many incumbents have recognized, they should not expect a revenue

⁵⁶ See Verizon Comments at 65; Time Warner Cable Comments at 30-31; Sprint Nextel Comments at 41; US Cellular Comments at 16.

⁵⁷ CTIA Comments at 24.

⁵⁸ T-Mobile Comments at 16.

⁵⁹ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8801 (1997); accord RCA Comments at 18 (“the Commission should emphatically reject any right of first refusal for incumbent LECs. A right of first refusal would be grossly anticompetitive and would simply preserve legacy inefficiencies and ensure higher costs and diminished innovation.”).

⁶⁰ Sprint Nextel Comments at 37.

recovery mechanism to make them whole for all lost intercarrier compensation revenues.”⁶¹ Indeed, protecting ILECs from the impact of USF reform only kicks the can down the road, masking inefficiencies that would otherwise be dealt with more quickly and reducing the likelihood that a competitor would be able to compete effectively with the supported carrier.

VI. ALTHOUGH THE NPRM EMBRACES POLICIES THAT WOULD NOT WITHSTAND JUDICIAL SCRUTINY, THE RECORD SHOWS THAT COMMISSION CAN FACILITATE BROADBAND DEPLOYMENT IN A MANNER THAT REFLECTS THE ACT’S MANDATES

SouthernLINC Wireless joins those who support the FCC’s stated goals of preserving and advancing voice service, increasing deployment of modern networks, ensuring that rates for broadband and voice services are reasonably comparable throughout the nation, and limiting the contribution burden on households.⁶² However, SouthernLINC Wireless wonders, as does NASUCA, whether the Commission should “embark on a convoluted course that would be unlikely to withstand legal challenge in order to accomplish its laudable goals of ensuring greater broadband deployment?”⁶³ Indeed, by failing to ground the policies it wishes to pursue firmly in the foundation of statutory authority, the FCC’s efforts recklessly run the risk that the time and effort spent developing this ill-fated reform will prove wasted. Worse yet, by rushing to implement a poorly-constructed policy, irreversible damage will be wrought upon supported areas in the interim.

Compounding this problem, the FCC now faces the reality of having placed all its reform eggs in the NBP basket. The vast majority of the discussion in the NPRM revolves around how the FCC may permissibly implement the NBP’s proposals under any conceivable interpretation of the Commission’s authority. Little effort has been made to develop alternatives to the NBP.

⁶¹ PAETEC Comments at 35.

⁶² NPRM at ¶ 482.

⁶³ NASUCA Comments at 34.

The result is an utter dearth of alternative options that the Commission *could* adopt in lieu of the FCC's NBP-centric proposal. This dearth of alternatives is not for lack of effort by multiple parties, who have done their part in proposing alternative frameworks that could accomplish the Commission's underlying objectives of promoting the deployment of modern communications networks and do so in a manner that is fully consistent with the Act.

SouthernLINC Wireless, for one, has consistently opposed the adoption of single winner reverse auctions, but it has proposed viable alternative policies that would reflect both the letter and spirit of the Act and provide consumers with the competitive service options they deserve and demand.⁶⁴ Other parties have suggested alternative policies that account for a competitive marketplace as well.⁶⁵ CTIA, for example, suggests that “[b]efore the Commission prematurely gravitates toward a single methodology for determining and distributing all support nationwide... that the FCC should conduct trials of different types of market-based mechanisms[.]”⁶⁶ The USA Coalition has also proposed a viable alternative that would facilitate deployment and competition.⁶⁷ Rather than haphazardly proceeding towards a pre-determined destination, the Commission should consider the full range of alternative proposals to the reverse auction mechanisms before developing a distribution mechanism that attacks the underlying

⁶⁴ SouthernLINC Wireless Comments at 17-30, WC Docket No. 05-337; CC Docket No. 96-45 (filed Apr. 17, 2008), a copy of which is attached to these reply comments. *See also* CTIA Comments at 14.

⁶⁵ *See e.g.*, USA Coalition USF NOI & NPRM Comments at 25 (filed July 12, 2010); *see also* USA Coalition Comments at 20 (“The Commission simply cannot abdicate its duty to perform the reasoned factual analysis required of it under the Act by steadfastly refusing to consider or independently analyze any alternatives unless the party identifying the alternative is able, on its own, to perform a comprehensive data analysis.”).

⁶⁶ *See e.g.*, CTIA Comments at 14; *accord* US Cellular Comments at 41 (“the Commission should steer clear of any experimentation with untried and problematic reverse auction mechanisms, and instead proceed with the adoption of a cost model for use in disbursing CAF support.”). *See also* T-Mobile Comments at 14 (“a preferable approach is to have the Commission adopt several pilot programs to measure which approach, or perhaps combination of approaches, delivers the widest broadband coverage at the least cost.”).

⁶⁷ USA Coalition USF Reform NOI & NPRM Comments at 25 (filed July 12, 2010).

obstacles to deploying broadband rather creating additional obstacles by introducing distinctions between services and speeds or funding only one provider per area.

SouthernLINC Wireless and other parties have also proposed alternative frameworks that could form the basis for distribution mechanism reform and facilitate broadband deployment in a manner that is consistent with the requirements of the Act.⁶⁸ However, there is scant evidence in the NPRM or elsewhere that the Commission has taken these alternatives into account in formulating this latest retreat of its fundamentally flawed proposal. The SouthernLINC Wireless proposal, for example, provided the Commission with workable alternative distribution mechanisms in a 2008 filing that continues to garner support from parties like CTIA.⁶⁹ Indeed, its multiple package “clock proxy” auction format could provide a level playing field for bidders while reducing the amount of required support over time. By considering proposals to provide ongoing support for multiple service packages that the Commission has defined based upon the telecommunications and information services that are available in urban areas *and* are subscribed to by a substantial majority of residential consumers, the Commission could comply with both the letter and the spirit of the Act’s requirements and encourage competition in a technologically-neutral manner. SouthernLINC Wireless respectfully submits that, by providing support in this manner, the Commission would better serve the goals of the Act and create incentives for winning bidders to expand service to unserved and under-served areas without creating opportunities for arbitrage that cause uneconomic fund growth. To date, the Commission has not seriously considered SouthernLINC Wireless’ proposal or other promising proposals in a manner

⁶⁸ See *e.g.*, CTIA Comments at 14; USA Coalition Comments at 29; SouthernLINC Comments at 17-30, WC Docket No. 05-337; CC Docket No. 96-45 (filed April 17, 2008).

⁶⁹ See CTIA Comments at 14.

which suggests that the Commission has already made up its mind to pursue the policies set forth in the NBP regardless of the consequences.

VII. THE FCC MUST CONSIDER REASONABLE ALTERNATIVE PROPOSALS AND MUST REASONABLY RESPOND TO COMMENTS THAT RAISE SIGNIFICANT ISSUES

The Commission cannot simply abdicate, for convenience or speed, its duty to develop reasonable alternatives or to otherwise refuse to consider alternative proposals unless the party identifying the alternative is able, on its own, to perform a comprehensive data analysis. As various courts have made abundantly clear, when an agency departs from its prior policies, as envisioned here, “the agency must consider reasonably obvious alternatives and, if it rejects those alternatives, it must give reasons for the rejection, sufficient to allow for meaningful judicial review.”⁷⁰ Indeed, a long line of cases cautions the Commission that “the failure of any agency to consider obvious alternatives have led uniformly to reversal.”⁷¹ Despite this requirement, the various alternative proposals discussed above, as well as others, have been before the Commission for several years and yet they have not been seriously considered or even addressed. To continue to ignore these valid alternatives without so much as putting them out for comment would be arbitrary and capricious and otherwise inconsistent with the APA.

In addition, many parties, including SouthernLINC Wireless, have expressed significant concerns regarding the legality and wisdom of the Commission’s proposed course of action in this and previous comment cycles that remain unaddressed. The courts have consistently held

⁷⁰ *N.Y. Council, Ass'n of Civilian Technicians v. Fed. Labor Relations Auth.*, 757 F.2d 502, 508 (2d Cir. 1985); *accord Public Citizen v. Steed*, 733 F.2d 93, 99 (D.C. Cir. 1984).

⁷¹ *See National Black Media Coalition v. FCC*, 755 F.2d 342, 357 (D.C. Cir. 1985); *Public Citizen v. Steed*, 733 F.2d 93, 103-05 (D.C.Cir. 1984) (NHTSA suspension of tire-grading regulation was arbitrary and capricious because agency failed to pursue available alternatives); *ILGWU v. Donovan*, 722 F.2d at 815-18 (failure to consider less far-reaching choices than complete rescission of homework restrictions was arbitrary and capricious); *United Church of Christ v. FCC*, 707 F.2d 1413, 1440 (D.C.Cir. 1983) (FCC's failure to give sufficient consideration to modification, rather than elimination of programming log requirements was arbitrary and capricious).

that, in order to satisfy the APA's requirement that parties be given a meaningful opportunity to participate in the rulemaking process, an agency must "reasonably respond to those comments that raise significant problems."⁷² While it is true that "[a]n agency need not respond to every comment" an agency is duty-bound to "respond in a reasoned manner to the comments received, to explain how the agency resolved any significant problems raised by the comments, and to show how that resolution led the agency to the ultimate rule."⁷³ The Commission's actions in the current docket have fallen far short of this truly modest standard, a reality that will likely not be lost upon a reviewing court. SouthernLINC Wireless and other parties have raised the issues addressed in these comments to illustrate the significant questions that the Commission has thus far ignored, and the Commission has a duty to provide satisfactory answers or modify the proposed reform measures to address the identified flaws.

⁷² See *Action on Smoking and Health v. Civil Aeronautics Bd.*, 699 F.2d 1209, 1216 (D.C. Cir. 1983); *North Carolina v. Federal Aviation Admin.*, 957 F.2d 1125 (4th Cir. N.C. 1992).

⁷³ *Id.*

CONCLUSION

For the reasons set forth above, SouthernLINC Wireless urges the Commission to heed the comments of the parties in the docket and base its reforms soundly within the requirements of the Act. Local and regional carriers like SouthernLINC Wireless are vital to the Nation's communications networks, yet the Commission's proposals threaten the viability of these providers and in a manner that does not comport with the universal service provisions of the Act. SouthernLINC Wireless, therefore, joins those who oppose the proposed reforms and urges the Commission to explore new proposals that reflect the requirements of the Act and better serve the interests of all consumers, regardless of where they live and work.

Respectfully submitted,



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