

July 26, 2011

Marlene H. Dortch, Secretary
Federal communications commission
445 12th Street, S.W.
Washington, DC. 20554

Re: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just & 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

Dear Ms. Dortch:

The Universal Service for America Coalition (“USA Coalition”) writes to encourage the Federal Communications Commission to adopt Universal Service Fund (“USF”) reforms that comply with the principles enumerated in Section 254 of the Communications Act of 1934, as amended (the “Act”), rather than impose arbitrary spending caps on high cost funding. Specifically, the USA Coalition adds its voice to NTCA, Wheat Telephone, and other parties advocating against the imposition of a hard cap on high-cost USF funding for services in rural areas, as such a cap would be both harmful to existing networks and lacking any basis in the Act’s requirements.¹

The existence of a vibrant and robust communications network is essential to the economic life and public safety of those who choose to live and work in rural America. In reforming the high-cost support mechanism and working to fulfill the Act’s universal service requirements, the Commission must first ensure that it does no harm to consumers or to the existing networks upon which consumers rely. Today, universal service support is used to operate and upgrade networks in rural, insular, and high-cost areas that provide not only voice services but also an array of information services. Although many of the wireless networks do not currently offer speeds of 4 Mbps downloads, competitive ETCs rely on universal service support to make the upgrades that will enable a more rapid deployment of faster services. Reforms that would artificially cap this support in order to redirect it to another purpose create the very real risk of harming the existing network in favor of a grand experiment that would be difficult, if not impossible, to justify under the requirements of the Act.

¹ See, e.g., Letter from Michael Romano, Senior Vice President - Policy, NTCA, to Marlene Dortch, FCC, *Connect America Fund*, WC Docket No. 09-51 (Jul. 11, 2011); Ex Parte Presentation of Wheat Telephone Inc., *Federal State Joint Board on Universal Service*, WC Docket No. 96-45, at 15 (filed Jun. 24, 2011).

Further, as NTCA correctly explained, a cap on USF high-cost funding would “limit – if not curtail entirely – any new network investment and thereby undermine the long-term objective of promoting and advancing access to advanced services in rural America.”² Instead, rural wireline and wireless carriers, many of which are already providing services similar to those envisioned by the National Broadband Plan, would face reduced or eliminated USF support. Such reductions could compel carriers to delay planned investments and may even force retrenchment from those areas with the highest costs, resulting in stranded plant and creating unserved areas where service once existed. Thus, imposing an artificial cap on high-cost funding would involve taking actions that would jeopardize the continued existence of existing networks and erect additional barriers to future network deployment, making such actions antithetical to the Act’s requirement that the Commission base its policies on the “preservation and advancement of universal service.”³

Rather than capping high-cost support to carriers, the Commission would be better served by removing obstacles preventing the delivery of advanced services to rural areas. These obstacles include:

- Unavailability of sufficient spectrum;
- Lack of sufficient funding for capital expenditures (e.g., cell site equipment, significant backhaul or transport costs) and operational expenditures due to low population density and/or extraordinarily high cost of serving the area;
- Burdensome, costly, lengthy, discriminatory, vague, or arbitrary regulatory requirements;
- Unavailability or incompatibility of handsets or equipment (e.g., 4G handsets); and
- Lack of sufficient access to necessary rights of way or slow and costly permit approval procedures.

Once the obstacles to universal service have been identified, they should be eliminated to the greatest extent possible. Under no circumstances should government rules and policies create additional obstacles to service deployment.

A hard cap would also be inconsistent with the principles of Section 254(b) of the Act, which the Commission is required to balance against one another in order to achieve the goals of the Act. By imposing a hard cap for high-cost USF funding, the Commission essentially shirks this obligation and instead creates an arbitrary cut-off for high-cost funding unrelated to the statute. Indeed, a hard-cap would leave no room for the Commission to determine that such support was “specific, predictable and sufficient” to achieve the goals of the Act. Similarly, such a cap would also hamper the ability of the Commission to respond in the event that services in rural, insular, and high-cost areas fail to be “reasonably comparable” to the services available in urban areas. In adopting USF reforms, the FCC must strike a balance between its commendable desire to minimize contribution amounts imposed on consumers nationwide and the need to ensure that rural consumers have access to reasonably comparable services at reasonably comparable prices.

In evaluating proposed reforms, the Commission must also keep in mind the practical effects of its policy decisions. For instance, Dakota Central Telecommunications, a rural carrier serving North

² *Id.* at 1.

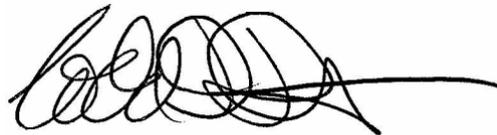
³ 47 U.S.C. § 254(b).

Dakota, recently noted that the FCC's proposed USF and intercarrier compensation reforms likely would require Dakota Central either to layoff employees or increase consumer rates.⁴ This problem is hardly unique to Dakota Central. For this reason, the USA Coalition joins with Dakota Central in urging the Commission to undertake reforms that do not threaten the ability of providers to offer services at affordable rates or to provide the quality of service consumers have come to expect.

The Commission should also carefully consider the effects of any reform on the ability of rural carriers to obtain and repay public and private sector loans. As the Western Telecommunications Alliance explained in its *ex parte* presentation to the Commission, "predictable and sufficient high-cost support and intercarrier revenue" are necessary for rural carriers "to operate and maintain their existing networks and services" as well as "to obtain the loans needed for additional future broadband deployments and upgrades."⁵ Disruptions to these revenue streams threaten future expansion and the long-term viability of the network. These types of disruptions could, and likely would, set back broadband deployment more than the proposed reforms could advance it.

The USA Coalition supports reform proposals that remain true to the requirements of the Act and that improve the effectiveness and efficiency of the support programs. Rather than swinging for the fence, the Commission should focus on fundamentals and address the many obstacles that, if lessened or eliminated, would have a greater impact on broadband deployment than any of the proposals set forth in the NPRM. An important component of this approach is to leverage the benefits of competition, and even the mere threat of competitive entry, rather than taking steps that would inhibit competition and competitive entry. A properly designed support program -- including both contribution and distribution mechanisms -- should not need to be capped. For this reason, the Universal Service Coalition respectfully submits that the perceived or actual need for a cap is evidence that the reform proposal under consideration should not be adopted.

Sincerely,



Todd D. Daubert
Counsel to the USA Coalition

⁴ Ex Parte Letter & Presentation of Dakota Central Telecommunications, *Federal State Joint Board on Universal Service*, WC Docket No. 96-45, at 2, 14 (filed July 15, 2011).

⁵ Ex Parte Letter of Western Telecommunications Alliance, *Federal State Joint Board on Universal Service*, WC Docket No. 96-45, at 1 (filed July 14, 2011).