Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding	)	WC Docket No. 10-90, 07-135, 05-337, 03-109 CC Docket No. 01-92, 96-45 GN Docket No. 09-51
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Comments of Communications Workers of America

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The Communications Workers of America ("CWA") submits these comments pursuant to the Commission's Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding ("Further Inquiry").[1] The Commission seeks comment on how recent proposals comport with the Commission's objectives and statutory obligations for universal service.[2] CWA represents 700,000 workers in communications, media, airlines, manufacturing, and public service. CWA members have an interest in this proceeding as workers in the industry and as consumers.

CWA provided Initial Comments in this proceeding in which we articulated our support for a unified, broadband-focused Connect America Fund (CAF) that would target support on a granular basis to areas for which market forces alone do not deliver quality, affordable voice and broadband services. CWA further emphasized that the CAF targeting and distribution methodology should give the current carrier-of-last resort right of first refusal, followed by competitive bidding.[3] CWA also concurred with the Commission's proposal to create an appropriate transitional glide path with a transition mechanism that will ensure adequate revenue recovery as it ramps down the system of implicit intercarrier compensation (ICC) support and replaces it with explicit subsidies from the new Connect America Fund.[4]

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[1] Further Inquiry into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding, WC Docket Nos. 10-90, 07-135, 05-337, 03-109; CC Docket No. 01-92, 96-45; GN Docket No. 09-51, Aug 3. 2011 ("Further Inquiry Public Notice").
[2] The Commission seeks comment on three specific USF reform proposals: "America's Broadband Connectivity Plan ("ABC Plan") put forward by AT&T, Verizon, CenturyLink, Frontier, FairPoint, and Windstream; a proposal from the State Members of the Federal-State Universal Service Joint Board (State Members), and the "RLEC Plan" from the Joint Rural Associations. *See Id.*, p.1-2.
[3] CWA Comments, In the Matter of 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 an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, SC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket No. 01-92, 96-45, Apr. 18, 2011, pp. ii-iii, 11-13 ("CWA Initial Comments").
[4] *Id.*, pp. i-ii, 20-21.

There are many elements of America's Broadband Connectivity Plan ("ABC Plan") filed by six Price Cap Companies that are consistent with CWA's articulated positions on USF/ICC reform, and most importantly, advance the Commission's objectives and statutory obligations. In these comments, we focus on those priority areas.

Elimination of Rural and Non-Rural Distinctions. CWA supports proposals to rationalize support to current rate-of-return carriers.[5] However, in order to move forward on USF reform, CWA supports the ABC Plan proposal that would initially implement different programs of support for rate-of-return and price cap carriers.[6] CWA also supports the proposal to eliminate the rural/non-rural distinction that has led to the perverse result that "roughly half of the unserved housing units are located in the territories of the largest price-cap carriers."[7]

CAF Support for Price Cap Areas - Right of First Refusal to Incumbent Local Exchange Carriers. In general, CWA supports the ABC Plan proposal that would give the incumbent Local Exchange Carrier (LEC) that serves an eligible wire center the right-of-first refusal (ROFR) to accept or decline the baseline support, followed by a competitive bidding process. However, there is no rational basis, as the ABC Plan proposes, to limit this right-of-first refusal to incumbent LECS only if they have already made high-speed Internet service available to more than 35 percent of the service area. Therefore, CWA recommends that the right-of-first refusal be made available to all incumbent LECS.

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[5] Rate-of-return carriers receive almost half ($2 billion) of the $4.3 billion High-Cost Fund to serve approximately 5.8 million lines. In contrast, in 2010 price cap carriers received approximately $1 billion for 111 million eligible lines. Moreover support for rate-of-return carriers has grown 12.6 percent over the past five years (2006-2010), compared to a 24.5 percent decline in support to price cap carriers over the same period *Id.* pp 7-8 from data in *USF/ICC NPRM*, pp 165-166.

[6] Letter from Robert W. Quinn, Jr., AT&T, Steve Davis, CenturyLink, Michael T. Skrivan, FairPoint, Kathleen Q. Abernathy, Frontier, Kathleen Grillo, Verizon, and Michael D. Rhoda, Windstream to Marlene H. Dortch, FCC, SC Docket No. 10-90 et al. (filed July 29, 20111) ("ABC Plan"), Appendix p.6.

[7] *Id.* p. 8 citation from FCC, *Connecting America: The National Broadband Plan*, March 2010, p. 141.

Providing the incumbent LEC the right-of-first refusal makes the most efficient use of limited capital by allowing the existing carrier to leverage its current network plant and equipment, technical and market knowledge, skilled workforce, and customer relations to expand broadband to areas already served by its voice network. Most important, it provides the best means to protect consumers from stranded investment and market exit by a new entrant who, after winning a competitive bid, might default on its obligations at the same time that the current incumbent, having lost its subsidy, either exited the area or reduced network investment, leaving customers without quality affordable voice and broadband services.[8] Ten years is the minimum time frame for allocating USF High-Cost support to ensure that public funding supports continuous upgrading of networks, rather than just hopping from one carrier to another, and to make meaningful carrier-of-last resort obligations.

Maintain Carrier-of-Last Resort Obligations. The Commission asks whether incumbent carriers will be able to maintain their carrier-of-last-resort obligations throughout a study area if legacy support is phased down.[9] The troubling fact is that in some, perhaps many, places the incumbent carrier will likely either not be able or choose not to maintain a quality voice network without USF and ICC support. This is the danger of the competitive path that the Commission appears determined to take. Therefore, to minimize risk, the Commission should adopt rules that incent incumbent carriers to exercise their ROFR and seek USF support. Most important, the Commission should *not* adopt any provision that would eliminate state Commissions' abilities to require incumbent carriers to meet carrier-of-last resort obligations. With such obligations in

[8] CWA Initial Comments., p.12.
[9] Further Inquiry PublicNotice, p.4.

place, incumbents would have greater incentive to exercise their ROFR, minimizing the risks of stranded investment and stranded customers, while facilitating upgrading wired networks.

As the Commission has long recognized, voice telephony is essential to public health, safety, and welfare. The Commission assumes enormous responsibility as it transforms the system of universal service support from one that subsidized incumbents with carrier-of-last resort obligations to one based on a more competitive, procurement model of support. To minimize the risk, the Commission should adopt rules that incent incumbents to invest in and upgrade their lines, establish quality service standards with data reporting to monitor the impact of the changes, with meaningful penalties for non-compliance.

Public Interest Obligations. CWA supports the State Members recommendation that recipients of support meet specific broadband build-out milestones and the ABC Plan proposal that CAF recipients meet specified bandwidth requirements to all locations within a supported area.[10] The Commission should require detailed reporting on build-out, speeds, price, and usage to facilitate the Commission's obligation to make sure that consumers in rural areas are receiving reasonably comparables services at reasonably comparable rates.

The Further Notice is silent on other public interest obligations. The Commission must make sure that "[p]roviders that benefit from public investment in their networks should be subject to clearly defined obligations associated with the use of such funding."[11] The Commission must make explicit the public interest obligations that every USF or future CAF

[10] Further Inquiry Public Notice, p. 4 citing State Member Comments, pp. 62-63; ABC Plan, pp. 2-3, 7-8.
[11] USF/ICC NPRM, p. 90 cited in CWA Initial Comments, pp. 13-14.

recipient must meet. As discussed in more detail in CWA's Initial Comments[12], these include the following requirements:

- Offer broadband services that meet or exceed minimum metrics, initially set at 4 Mbps downstream/ 1 Mbps upstream (sufficient for education and health care applications), with higher speeds over time.
- Maintain carrier-of-last resort obligations for voice and broadband.
- Continue to provider operator services and directory assistance.
- Maintain high standards of service quality and data reporting on service quality and employment measures.
- Connect all schools, libraries, and other community anchor institutions.
- Require stringent compliance with all labor laws and respect for workers' rights.
- Maintain carrier of last resort obligations for voice and broadband.

Reforms for Rate-of-Return Carriers – Corporate Operations Expense Limitation Formula. The Commission should move forward expeditiously to rationalize the system of support for rate-of-return companies. One area that is ripe for reform is the formula to limit recovery of corporation operations expenses, as proposed in the Further Inquiry.[13] Other areas include reductions in reimbursement in the high-cost loop program, phasing out local switching support, setting reasonable guidelines for reimbursements for capital and operating expenses based on benchmarks developed from investment made by all comparable companies, and limiting the total support per line that any one carrier in the continental United States can receive at the proposed $250 per month ($3,000 per year) per line limit.[14] CWA has recommended that

[12] *See* CWA Initial Comments, pp. 13-20.
[13] Further Inquiry Public Notice, p. 6.
[14] CWA Initial Comments, p. 8 with citations to USF/ICC NPRM at 21 (summary), 157-193 and 208-215.

$500 million of these annual savings be redirected to the E-Rate program and $50 million to Lifeline/Linkup broadband pilots.[15]

Ensuring Consumer Equity. CWA concurs with the State Members recommendation to conduct an earnings review to ensure that carriers receiving USF support do not earn more than a reasonable return. The earnings review should be conducted every year. To ensure that USF and CAF funding supports the network, not inflated earnings, the Commission should require USF and future CAF recipients to limit their dividend pay-out ratio (dividend divided by net income) to 75 percent.[16] The Commission should also adopt reasonable limits on corporate overhead operations and executive pay, limited to 35 times the average workers' earnings.

Conclusion. CWA appreciates efforts by the Commission to move forward with all due haste to transform the current Universal Service High-Cost Fund. High-speed broadband is the critical infrastructure for the 21st century, and our nation must do all it can to ensure that every American household, community, and business has access to quality, affordable Internet services. Our democracy and our nation's historic commitment to equal economic opportunity require no less.

Respectfully submitted,

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[15] *Id.*, p. ii
[16] *Id.*, p. 18.