

**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 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

**IOWA ASSOCIATION OF MUNICIPAL UTILITIES
RESPONSE TO PUBLIC NOTICE DA 11-1348**

The Iowa Association of Municipal Utilities (“IAMU”) respectfully submits this response to the Commission’s request for further comments on recent proposals to modernize the federal Universal Service Fund (“USF”) and the intercarrier compensation (“ICC”) system. In its notice of further inquiry, the Commission asked commenters to address several specific issues posed by the proposals submitted by the State Members of the Federal-State Universal Service Joint Board, by the Joint Rural Associations (“RLEC Plan”), and by six major Price Cap Companies (the “America Broadband Connectivity Plan” a/k/a the “ABC Plan”). In these comments, IAMU will focus on the issues that are of greatest relevance and interest to its members.

I. INTEREST OF IAMU AND ITS MEMBERS

IAMU is a state service organization whose members include 545 Iowa communities, including 28 that operate municipal broadband systems. Nineteen of these broadband systems provide competitive local access telephone service. Most of the 28 provide cable television, high

speed Internet, and data communications services over all fiber or fiber/coax distribution networks. The average population of the Iowa cities with municipal broadband systems is 5,519. The systems were established because the residents of the communities in question believed that affordable access to advanced communications capabilities and services was vital to their economic vitality, educational opportunity, and quality of life and that their incumbent service providers were unwilling or unable to provide the necessary infrastructure and services at anything close to competitive rates.

The Commission has long recognized the substantial contributions that Iowa's municipal utilities have made to the well-being of their communities. For example, eleven years ago, in its Second Advanced Services Report under Section 706 of the Telecommunications Act, the Commission provided a case history highlighting Muscatine, Iowa, as an example of successful broadband deployment. Among other things, the Commission noted that Muscatine's municipal utility had been the first to deploy broadband in the City, spurring USWest and AT&T Cable to follow suit; that Muscatine's system was capable of providing 4 Mbps downstream and 1 Mbps upstream and passed 100% of the approximately 9,400 residences in the City; that the system was providing broadband connectivity to every school classroom in the City, as well as provided advanced communications services to the City's businesses; and that Muscatine's service area included the municipal boundaries of Muscatine, plus the utility's authorized electric-service territory, and that the utility was further authorized to extend these boundaries to neighboring service areas, wherever it is economically viable to do so.¹ The Commission further observed that

One unique factor in the development of high-speed services in Muscatine is the strong role of public investment, both through the Iowa Communications Network

¹ *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion ...*, ¶¶ 139-151, 15 FCC Rcd. 20913, 2000 WL 1199533 (F.C.C.) (rel. August 21, 2000).

and through both the state and municipal governments. Like several other states, Iowa has been proactive in overcoming legal barriers that limit municipal provision of high-speed services. In 1997, the Iowa legislature voted unanimously to allow the provision of telecommunications services through municipal utilities. Dissatisfied with the legislature's action, the Iowa Telephone Association challenged an Iowa town's plans to provide competitive telephone service; the lower court rejected the challenge, and the Iowa Supreme Court affirmed the judgment.

For smaller Iowa communities attempting to attract new businesses and retain their current economic base, municipal provision of advanced services, combined with the Internet's ability to overcome distance barriers, can be an enticing factor. If municipal provision of high-speed infrastructure encourages growth and establishes the demand for high-speed service, other providers such as cable and telephone may then find a sufficient client base to begin to offer their own services. In Muscatine, the telephone and cable companies responded quickly to the deployment by the local utility. Municipal utilities-based deployment may also allow private providers to realize time and cost savings, for example, by sharing unused dark fiber capacity and with using public right-of-ways.²

Today, 26 of Iowa's 28 municipal telecommunications utilities offer retail broadband service at competitive rates in their communities, with two of those utilities offering fiber optic backbone capacity on a wholesale basis to outside providers. Some also offer service in areas in which their electric systems extend outside city limits. At the request of neighboring communities, a few have even extended service further than that. Members of IAMU would like a fair opportunity to bid for Connect America Funds to extend or upgrade their services to unserved or underserved areas.

II. COMMENTS

A. The Price Cap and Rate-of-Return Carriers' Proposals are Biased and Unreasonable

As many commenters have observed, the ABC Plan, the RLEC Plan, and the so-called Joint Industry Framework proposed by the Price Cap and Rate-of-Return Incumbent Carriers are

² *Id.* at ¶¶ 150-51 (footnotes omitted).

flawed on many levels.³ Among other things, these self-serving proposals by companies representing only a limited segment of the rural broadband ecosystem would not phase out USF subsidies, but would actually increase them; would require investments of billions of dollars in technologies that would produce broadband with too little capacity to support robust economic development or ever-increasing consumer bandwidth requirements; would do little, if anything, to cure the inefficiencies that have made the USF so costly; and would insulate the carriers from competition from potentially more qualified bidders of CAF funds. Believing that the record adequately exposes the problems with the incumbents' proposals, IAMU will not burden the record with further argument but will turn to the issues that are of greatest significance to its members.

B. The Commission Should Reject The Incumbents' Request for a Right of First Refusal

The incumbent Price Cap carriers would have the Commission grant them a right of first refusal (ROFR) if they have made broadband service available to more than 35 percent of the locations served by a wire center. This supposedly makes them better able than other providers to accelerate broadband deployment and avoid unnecessary duplication of facilities. IAMU disagrees.

As indicated above, Iowa's municipal utilities have done extremely well in meeting the needs of their citizens, businesses, and institutions for broadband services. They became providers of communications services, not because they wanted to compete with the private sector, but because the incumbents were not offering the services that their communities required or were doing so in an inadequate or prohibitively expensive manner. In fact, dissatisfaction with the incumbents' services ran so deep in Iowa, that the communities that authorized their

³ See, e.g., the comments filed on August 24, 2011, by the American Cable Association, Google, Public Knowledge, Free Press, the National Cable and Telecommunications Association, Comcast, and most other commenters other than the incumbents.

municipal electric utilities to provide communications services did so by overwhelming majorities.⁴

Now, with CAF support, many of IAMU's members would be willing and able to extend broadband service to unserved or underserved areas. Furthermore, if the Commission awarded CAF subsidies in a way that encouraged deployment of broadband at levels sufficient to support robust economic development and to meet foreseeable growth in consumer bandwidth requirements, most of IAMU's telecommunications providers would consider investing in upgrades to their existing systems.

Of course, the Commission need not now decide between the incumbents and other bidders for CAF funds. All it need to is establish an open and competitively-neutral process that gives all qualified providers an opportunity to bid and be judged on the merits of their individual proposals. Granting any entity or class of entities a ROFR cannot be reconciled with such a process.

In an ideal world, the Commission would have sufficient CAF funds available to ensure that all Americans had affordable access to fiber or other high-capacity broadband capabilities. But in today's economic environment, that is not realistic. IAMU recommends that the Commission grant subsidies to those bidders that offer to make the greatest bandwidth available to the greatest number of residents and businesses in the area in question with the funds available. IAMU submits that its members are likely to do well in any such competition.

⁴ In 54 local Iowa elections held between 1994 and 2003, the average "yes" vote authorizing establishment of municipal broadband systems was 79 percent. In 26 of these communities the cities decided not to go forward with a public system, believing that the electoral margin was not high enough to act or, more often, that the election provided sufficient motivation to incumbent providers to meet local demands.

IAMU cautions, however, that reverse auctions can be abused by large providers that operate in multiple markets. Such providers can submit lowball bids in markets where there is competition while making up for the lost revenues by bidding high in markets in which they face no meaningful competition. The Commission and state public service commissions should be vigilant to spot and prevent such abuses.

C. The Commission Should Establish Separate CAF Funds for Wireline and Mobile Broadband

IAMU agrees with the commenters, such as the American Cable Association, that support creation of separate CAF subsidy programs for wireline and mobile broadband. Wireline and mobile broadband are not close substitutes but differ in many important ways – including cost structure, performance, reliability, etc. As a result, treating them the same would result in significant foreseeable and unforeseeable distortions.

The Commission should also ensure that CAF recipients, particularly wireless providers, use subsidies only to support service in unserved areas and to not use such subsidies to compete with unsubsidized providers in other areas. Similarly, the Commission should be especially careful to ensure that carriers that provide both wireline and wireless service will not be able to obtain USF subsidies based on their wireline costs and then meet their service obligations through the provision of wireless services.

D. Universal Service Funds Should Not Support Closed Networks

In the American Recovery and Reinvestment Act, Congress established the principle that all recipients of federal broadband stimulus funds must provide “open access” to the networks and facilities purchased with such funds. The National Telecommunications and Information Administration (“NTIA”) and the Rural Utilities Service (“RUS”) then developed rules and guidelines to implement this statutory requirement. While some incumbent providers supposedly did not apply for stimulus funds because of the existence of these open-access requirements,

NTIA and RUS still received thousands of applications for stimulus funds – many more than they could satisfy. IAMU submits that the Commission should impose similar requirements on recipients of CAF funds.

Respectfully Submitted,



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