

**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 THE USA COALITION**

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## SUMMARY

The comments in response to the FCC's Public Notice and the USF/ICC NPRM reflect the Federal Communications Commission's ("FCC") scattershot approach to universal service reform and the need for that approach to be rethought prior to adopting any reform plan. Getting universal service reform correct is far more important than adhering to an arbitrary, self-imposed deadline for reform -- particularly when the reform under consideration would both contravene the Act and threaten the survival of existing communications networks in rural America. The comments clearly indicate that the ABC Proposal put forth by the nation's largest carriers and the other reform plans put forth for comment all fail to grapple, much less comply, with the statutory requirements of Section 254 of the Communications Act: a specific, sustainable and predictable mechanism that provides funding sufficient to ensure the provision of universal service to rural consumers at service levels and rates reasonably comparable to those available to urban consumers. Further, neither the plans put forth for comment by the Commission nor the comments in support thereof can rectify the arbitrary adoption of a 4 Mbps broadband standard absent a showing of adoption of such services by a substantial majority of residential consumers. As such, the plans must be rejected on statutory grounds.

There is widespread support for the development of a competitively neutral support distribution mechanism that allows the market for voice and broadband services to function without interference while ensuring that consumers in rural, insular, and high-cost areas have access to services that are 'reasonably comparable' to those available in urban areas. Consumers, and not the industry or the FCC, are best equipped to determine the services to which they should subscribe, and competitively-neutral policies will ensure that universal service funds are deployed as efficiently as possible while providing consumers with a choice of services and providers. Universal service reform cannot simply function as a mechanism by which ILECs are kept whole during intercarrier compensation reform while competitors are left without access to

key revenue streams, including universal service support, or provide support to only a single USF-support recipient. Rather, any plan adopted by the Commission should include a single, integrated high-cost support mechanism that will place all broadband providers (ILEC and CETC, wireline and wireless) on an equal footing for support.

Any reform adopted by the Commission must recognize the increasing importance of wireless services, both in urban and rural areas. Mobile broadband creates significant new economic opportunities for Americans and offers a powerful platform for commerce, especially in rural areas. To fully realize the benefits, however, all Americans, not just those living in urban areas, must have access to mobile broadband. As such, the ABC Plan's proposal to allocate only \$300 million to wireless services, while reserving at least \$4.2 billion for wireline services both dramatically undervalues the value of wireless services and is grossly disproportionate to the \$3 billion that wireless carriers contribute each year to the USF. Further, in adopting universal service reform, the Commission must be careful to ensure that the reform does not damage the viability of basic telephone service. Many consumers rely on the access to affordable wireline and wireless voice service available to them as a result of USF support; any reform by the Commission should not result in a reduction of services or higher rates for these consumers.

The Commission should also delay the imposition of any USF reforms in sensitive areas such as Alaska, Hawaii, and tribal lands. Circumstances in these areas are dramatically different than those in the majority of the United States, and a one-size-fits all approach should not be imposed. Special consideration of these areas is required, and the Commission should consider any USF reform affecting these regions as part of a separate proceeding, delaying the imposition of any reforms adopted in this proceeding until a later time.

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**REPLY COMMENTS OF THE USA COALITION**

The Universal Service for America Coalition (“USA Coalition” or “Coalition”), by its attorneys, respectfully submits these reply comments on the issues raised by the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice, in which the Commission requested comment on a number of proposals submitted by third parties as well as several specific questions relating to the high-cost universal service fund (“USF”) and the existing intercarrier compensation (“ICC”) regime.<sup>1</sup> Despite attempts by the nation’s largest carriers to portray the ABC Plan as a consensus plan enjoying wide-spread industry support, nothing could be further from the truth. Rather, the comments submitted in this unreasonably expedited proceeding clearly indicate that the reforms proposed by the Commission in its

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<sup>1</sup> *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, Public Notice, DA 11-1348 (rel. Aug. 3, 2011) (Public Notice).

February 2011 USF/ICC NPRM and those upon which it seeks comment in the instant Public Notice fail to provide meaningful reform, and are contrary both to the text of the Act and to its overarching goal of ensuring that rural consumers have access to the telecommunications and information services they require.<sup>2</sup>

The comments in response to the FCC's Public Notice and the USF/ICC NPRM reflect the Commission's scattershot approach to USF reform, and the need for that approach to be rethought prior to adopting any reform plan. Rather than rushing to meet an arbitrary, self-imposed deadline for reform, the Commission should consider the alternative reform proposals on the record that are designed to achieve the Act's universal service goals in a manner consistent with the requirements of the Act. Indeed, getting universal service reform right is far preferable than rushing to implement a reform proposal that would both contravene the Act and threaten the survival of existing communications networks in rural America. In order to accomplish true reform, the Commission must develop a proposal that allows residents and businesses in rural, insular, and high-cost areas to select the services, technologies, and service providers of their choice to meet their communications needs through an efficiently functioning market. The best way for the Commission to realize this objective is not to select a specific provider or mandate minimum supported speeds but, instead, is to define specific goals for the universal service program, provide clear definitions for supported services, and then develop a plan that provides the support and incentives necessary for the market to achieve those goals in an efficient manner as possible.

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<sup>2</sup> *Connect America Fund*, WC Docket No. 10-90, *et al.* at ¶ 56 (rel. Feb. 9, 2011) (“USF/ICC NPRM”).

**I. THE COMMENTS RAISE SERIOUS QUESTIONS AS TO WHETHER ANY OF THE COMMISSION’S PROPOSALS COMPLY WITH THE ACT.**

**A. The Record Reflects Significant Concerns That The Proposed Reforms Are Not Tied To the Act And Thus Will Be Reversed When Appealed.**

The USA Coalition joins with other commenters in urging the Commission to ensure that universal service mechanisms are structured in a manner that complies with the statutory requirements of Section 254 of the Communications Act: a specific, sustainable and predictable mechanism that provides funding sufficient to ensure the provision of universal service to rural consumers at service levels and rates reasonably comparable to those available to urban consumers.<sup>3</sup> As NASUCA notes, “[a]ny attempt to circumvent the clear meaning of the Act by hijacking the universal service fund from serving its intended purpose of compliance with section 254 of the Act must clearly fail for multiple legal reasons.”<sup>4</sup> The Commission cannot achieve intercarrier compensation reform or encourage broadband deployment by eliminating the support necessary to achieve Section 254’s statutory obligations, and any attempt to do so by adopting the proposed plans “will be litigated and will present a multiplicity of opportunities for uncertainty, delay, and possible reversal of the implementation of any reform proposal.”<sup>5</sup>

In structuring any reform, the Commission must take the time to define the essential statutory terms that must play a key role in the distribution of support, but which the FCC has historically struggled to define.<sup>6</sup> The Rural Broadband Alliance highlights the need for the FCC to construct these definitions, asking:

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<sup>3</sup> Rural Broadband Alliance at 4; Metro PCS d/b/a Cellular One Comments at 1; CTIA Comments at 14 (discussing mobile services).

<sup>4</sup> NASUCA Comments at 51.

<sup>5</sup> *Id.*; accord Comments of Rural Telecommunications Group, Inc. at 12 (“If the needs of small, rural wireless providers are not incorporated in any so-called consensus agreement, any wireless rule modifications based on such agreement are unlikely to survive judicial review.”).

<sup>6</sup> See *Qwest Communications Int’l, Inc. v. FCC*, 398 F.3d 1222, 1223 (10th Cir. 2005).

Until the FCC establishes how the definition of universal service will be redefined in accordance with Section 254(c)(1) and (2) of the Act, how can the Commission suggest what will constitute “reasonably comparable” services and rates? And, absent a determination of what constitutes “reasonably comparable” services and rates, how can the Commission suggest what level of funding will be “sufficient?”<sup>7</sup>

The fundamental failure of the Commission to determine what constitutes ‘reasonably comparable’ services and rates and what constitutes “sufficient funding” leave the Commission without a structure upon which it can build reform. Unfortunately, none of the plans currently under consideration take this necessary step. As SouthernLINC Wireless notes, “no where in the ABC Plan’s supporting documentation does the plan discuss exactly how its USF proposals would comply with Section 254’s mandate that services and rates be “reasonably comparable” to those in urban areas and “affordable” for rural consumers.”<sup>8</sup> This glaring deficiency must be rectified before the Commission can adopt any of the reform plans; without such statutory analysis, no plan will survive judicial review. Unfortunately, as described below and in the USA Coalition’s initial comments, when this statutory analysis is undertaken, all of the plans put forth by the Commission will be found wanting.

For instance, the proposals put forth by the Commission to cap arbitrarily universal service support at current levels runs afoul of Section 254’s requirement of “sufficiency.” As ICore notes, “[i]t is difficult to imagine how the goals of universal, advanced broadband deployment, coupled with on-going universal telecommunications service requirements, can be fully realized if constrained by artificial caps on high cost support.”<sup>9</sup> This conspicuous contraction is particularly detrimental because, as described above, the Commission’s failure to define key terms in the Act leaves it “totally unknown at this point whether existing levels of

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<sup>7</sup> Rural Broadband Alliance at 27.

<sup>8</sup> SouthernLINC Wireless at 21-22.

<sup>9</sup> ICore Comments at 4.

high-cost support are at all sufficient both to maintain and enhance universal telecommunications service and to deploy broadband to millions of currently unserved Americans at the same time.”<sup>10</sup> As such, the plans are all fatally flawed until they can demonstrate that they will achieve their goals.

Questions about the availability and amount of support for broadband deployment also delay network deployment, particularly by smaller carriers, contrary to the goals of the Act. As Cellular One has explained, “regional carriers invest more capital in their networks than larger carriers, as a percentage of revenue” and therefore removing funding for such capital expenditures “would inject unacceptable uncertainty into business plans by unpredictably reducing the amount of support available for costs that are allocated over a region.”<sup>11</sup> The ABC Plan put forth by the nation’s largest carriers does not to alleviate the uncertainty. As noted by the Pennsylvania Public Utility Commission, “[t]he assumptions, the input parameters and their values, the internal logic and operation of the CQBAT model, and even the output results are opaque, and they have not been independently tested for their robustness and reliability. Nor has the USTA or the FCC made any arrangements for the independent testing and verification of the CQBAT model.”<sup>12</sup> Without additional details and time for meaningful analysis, any Order

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<sup>10</sup> *Id.* at 5.

<sup>11</sup> MetroPCS d/b/a Cellular One comments at 26.

<sup>12</sup> Comments of the Pennsylvania Public Utility Commission at 4; *accord* Comments of Iowa Utilities Board (“the extent to which the plans rely on economic cost models which have not yet been made available for examination has hampered the Board’s ability to answer most of the Commission’s questions in the Inquiry which are primarily technical in nature.”); Comments of the Louisiana Public Service Commission (“The unavailability for examination of economic cost models has placed the LPSC at a distinct disadvantage in reviewing the LPSC’s more technical concerns about the mechanics of the ABC Plan.”).

adopted by the Commission proposing to follow the ABC Plan’s proposals will only further harm regional and rural carriers and delay network deployment.<sup>13</sup>

Further, the FCC must revise its proposal to permit the states to play the important role envisioned for them in the Act. As the Massachusetts PSC explains, “the cooperative federalism between the FCC and state commissions has existed in the communications industry for many years, and states like Massachusetts have succeeded in ‘delivering responsive consumer protection, assessing market power, setting just and reasonable rates for carriers with market power, providing fact-based arbitration and adjudication’ for intercarrier disputes, and eligible telecommunications carrier (ETC) designations, working within the federal schematic.”<sup>14</sup> In other words, the states, whether in the guise of the Federal-State Joint Board or as individual commissions designating eligible telecommunications carriers, have an important role to play in determining which carriers and services should be eligible for support. The Commission should not eliminate the ability of the states to designate ETCs, deny funding to carriers that have been properly designated as ETCs by the states, or ignore the states’ statutory rights to be consulted on matters affecting universal service.

**B. The Record Does Not Provide Support For Establishing A 4 Mbps Standard For USF-Supported Broadband Services.**

The USA Coalition joins with SouthernLINC Wireless in noting that “all three industry proposals (and the ABC Proposal in particular) fail to justify the expansion of the definition of supported universal services to include high speed broadband information services under the Act’s requirements.”<sup>15</sup> Currently, the only broadband definition ever adopted by the Commission

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<sup>13</sup> Accord NCTA at 14 (“[i]n addition to basic concerns about the public accessibility of the model, we have more specific concerns about the results it is likely to produce. In particular, the model appears to include only the costs of deploying incumbent LEC wireline broadband networks, and to ignore the costs of deploying other types of broadband networks, including wireless broadband.”)

<sup>14</sup> Mass. PSC Comments at 7.

<sup>15</sup> SouthernLINC Wireless Comments at 10.

is 200 kbps, which was adopted in 2007.<sup>16</sup> Since then, as NASUCA points out, “Nothing has changed, including the law.”<sup>17</sup> As such, the 4 Mbps standard touted in both the USF/ICC NPRM and in the ABC Plan has no basis in law or in previous Commission orders.

Further, the record does not support the adoption of a 4 Mbps standard. As noted by various parties in these dockets, the FCC can only establish universal service support for services that “have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers” in addition to other statutory requirements.<sup>18</sup> Economists from the Mercatus Center at the George Mason University recently have provided the FCC with analysis that the proposed 4 Mbps standard for broadband service cannot be squared with the Act’s requirement that these services be subscribed to by a majority of customers.<sup>19</sup> Further, by the FCC’s own analysis, 60% of Internet connections in the United States have download speeds of *under* 3 Mbps.<sup>20</sup> As such, nothing in the record, and certainly no formal findings of the FCC, support a determination that 4 Mbps standard should be adopted.

Additionally, even if there were record support for the 4 Mbps standard, the FCC would first have to consult with the Joint Board prior to adopting it. As the Rural Broadband Alliance explains:

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<sup>16</sup> See *High-Cost Universal Service Support*, WC Docket No. 05-337, Recommended Decision, FCC 07J-4, 22 FCC Rcd 20477 (2007) (noting that “currently, the FCC considers “high speed “services to be those capable of transmission rates of 200 Kbps in at least one direction and “advanced services” to be those capable of transmission rates of 200 Kbps in both directions).

<sup>17</sup> NASUCA Comments at 53.

<sup>18</sup> Rural Broadband Alliance Comments at 23; SouthernLINC Wireless Comments at 18; Windstream Reply Comments, WC Docket No. 05-337 at 27 (filed May 23, 2011).

<sup>19</sup> Comments of the Mercatus Center at the George Mason University at 3, WC Docket No. 10-90 *et al.* (filed Apr. 18, 2011) (“We also find that a substantial majority of residential customers do not subscribe to 4 Mbps/1 Mbps broadband.”).

<sup>20</sup> Federal Communications Commission, Industry Analysis and Technology Division Wireline Competition Bureau, *Internet Access Services Report* (Mar. 2011).

The FCC in conjunction with the Joint Board is responsible for determining alterations and modifications to the definition of universal service. Although the ABC Plan assumes the definition of broadband for universal service funding purposes to be 768 Kbps up and 4 Mbps down, the utilization of this definition of universal service in the ABC Plan does not constitute a sustainable basis for the Commission to adopt the proposed standard in the absence of a fact-based finding reached in a manner consistent with statutory requirements.<sup>21</sup>

Further, as NASUCA notes, “the role of the Joint Board in expanding the definition of supported services is statutorily prescribed in 47 U.S.C. § 254(c).” Because of these statutory requirements, the Commission cannot simply adopt the 4 Mbps standard proposed by the ABC Plan without engaging in the proper statutory analysis or taking the steps required by statute to add 4 Mbps broadband to the list of supported services. This same deficiency plagues not only these proposals, but also the similar speed standard set forth in the FCC’s initial NPRM. No new data has been offered to correct this deficiency, and it appears that none could at this date. As such, the FCC cannot permissibly establish 4 Mbps download broadband as a supported service.

**II. THE COMMENTS REFLECT THE IMPORTANCE OF COMPETITIVE NEUTRALITY TO ANY USF REFORM PROPOSAL PROPOSED BY THE COMMISSION.**

**A. USF Support Should Provide Consumers With Access To Services They Demand Rather Than Those Selected By The Commission.**

The USA Coalition adds its voice to the chorus of commenters urging the Commission to adopt truly competitively neutral rules as part of its USF reform and to reject any proposals that favor one type of provider over another or one technology over another.<sup>22</sup> Consumers, and not the industry or the FCC, are best equipped to determine which services they should subscribe. As Comptel explains, “Competitively-neutral distribution methods will not guarantee any one carrier a particular result, but will instead ensure that CAF funds are deployed as efficiently

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<sup>21</sup> Rural Broadband Alliance at 15.

<sup>22</sup> SouthernLINC Wireless Comments at 23; Comptel Comments at 25; RCA Comments at 2.

possible,” while also ensuring that consumers have a choice in between service types and service providers.<sup>23</sup> For the same reason, any policy that would provide consumers with only a single service option, whether for voice or broadband services, contravenes the principle of competitive neutrality and risks denying rural consumers “reasonably comparable” services to those available in urban areas.

The proposals upon which the Commission sought comment all fail this basic requirement of competitive neutrality. As NCTA explains:

In a number of significant ways, the proposals [before the Commission] demonstrate a consistent bias in favor of incumbent LECs at the expense of all other providers. For example, they propose increasing the amount of high-cost support received by incumbent LECs and largely denying other providers the opportunity to receive such support. They propose creating an access replacement mechanism that is available only to incumbent LECs, regardless of size and with no demonstration of need, while providing no comparable support to competitors, even small companies serving rural areas. These and similar elements of the incumbent LEC proposals are relics of the past and they should have no place in a modern, market-based regime.<sup>24</sup>

Other commenters reach similar conclusions. For instance, RCA urges the Commission to “emphatically reject [ABC Plan’s] self-serving USF proposals, and instead adopt truly neutral, market-based reforms that allow burgeoning competition among wireline, wireless, and other providers in the broadband marketplace to inform the level and allocation of high-cost support.”<sup>25</sup> The USA Coalition agrees that the proposals before the Commission place too much emphasis either on the method of providing service or on the carrier’s historical regulatory classification, and they blatantly ignore the benefits to all consumers of a competitive market.

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<sup>23</sup> Comptel Comments at 25.

<sup>24</sup> NCTA Comments at i-ii.

<sup>25</sup> RCA Comments at 2.

The development of a competitively neutral support distribution mechanism that allows the market for voice and broadband services to function without interference is essential to ensuring that consumers in rural, insular, and high-cost areas have access to services that are ‘reasonably comparable’ to those available in urban areas. As the Massachusetts PSC explained, “when Congress enacted the Telecommunications Act of 1996 (1996 Act), it not only codified existing universal service policy . . . it also intended to promote competition in the communications marketplace. Congress believed that competition would promote consumer welfare by securing ‘lower prices and higher quality services’ for consumers.”<sup>26</sup> “To maintain competitive neutrality, however, the Commission must treat similarly-situated carriers equally, avoiding unfair or uneven pressures or price increases by ensuring that rural [CETCs] have access to cost recovery mechanisms.”<sup>27</sup> Specifically, as PAETEC notes, any reform undertaken by the Commission “must adopt a competitively neutral approach that recognizes the unique circumstances of [CETCs], including the limited revenue recovery opportunities they are provided.”<sup>28</sup> For this reason, it is essential that USF reform not simply function as a mechanism by which ILECs are kept whole during intercarrier compensation reform while competitors are left without key revenue streams, including universal service support.

The USA Coalition joins with RCA in urging the Commission to adopt “an integrated high-cost support mechanism . . . as such a mechanism would put all broadband providers on equal footing for CAF support and eliminate the historical bias in favor of wireline technology.”<sup>29</sup> Further, as Comcast notes, “a single funding mechanism would more closely mimic the workings of a competitive marketplace and ensure adherence to the Commission’s

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<sup>26</sup> Massachusetts PSC Comments at 6 (quoting Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, Preamble (1996)).

<sup>27</sup> RICA Comments at 25.

<sup>28</sup> PAETEC Comments at 16.

<sup>29</sup> RCA Comments at 10.

guiding principles.”<sup>30</sup> A single fund for all carriers is also consistent with the principle of competitive and technological neutrality. “Technological neutrality in funding decisions would eliminate any need to establish separate funding mechanisms based on technological differences.”<sup>31</sup> Indeed, the USA Coalition believes that any program that provides support to different types of carriers through different programs violates the principle of competitive neutrality and represents undue interference in the marketplace.

The Commission must also avoid reform that would reduce competition among service providers in rural areas or otherwise harm the availability of service in rural areas. Instead, the Commission should rely on market-based mechanisms for ensuring that consumers in rural, insular, and high-cost areas have access to services “reasonably comparable” to those in urban areas at “reasonably comparable” prices. As Louisiana Public Service Commission Commissioner Clyde Holloway explains, “... funding proposals such as reverse auctions and cost models are unworkable and will cause USF funding to become unstable and unpredictable,” both because of their complicated nature, and the fact and because a single winner support distribution method creates perverse incentives for participants.<sup>32</sup> The USA Coalition urges the Commission to heed Commissioner Holloway’s warning and “proceed cautiously” in considering any proposal to reduce or eliminate USF support in “competitive areas.”

The Commission should also be careful to ensure that any reform does not distort the markets in a manner that favors large national carriers over the carriers that traditionally have focused on serving rural areas. As Commissioner Holloway explains:

The FCC’s premise that funding should no longer be available where a competitor exists ignores situations where there may be

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<sup>30</sup> Comcast Comments at 35.

<sup>31</sup> Comcast Comments at 34.

<sup>32</sup> Letter from Clyde C. Holloway, Commissioner, Louisiana PSC, to Chairman Genachowski, FCC (Aug. 18, 2011).

cross subsidization between a competing carrier's urban and rural operations. Cable competitors can balance rates between urban and rural markets. Rural Telephone companies typically do not have the ability to rate rebalance between rural and urban markets.<sup>33</sup>

As such, any plan (like the ABC Plan) that would deny all carriers support when even a single carrier provides broadband services without USF support risks undermining the market. Support for multiple carriers in a region is essential in order to provide consumers in rural areas with an choice among services and service providers.

**B. Any USF Support Mechanism That Would Result In A Single USF-support Recipient Must be Rejected As Inconsistent With The Act.**

The comments reflect a serious concern by a wide range of commenters that any proposal that would result in only a single carrier receiving USF support in a service area would violate the principle of competitive and technological neutrality.<sup>34</sup> “This is true regardless of whether that single carrier is selected by default (i.e., the ILEC *via* a right of first refusal), selected via a beauty contest, or selected during a reverse auction.”<sup>35</sup> Instead, for consumers to receive the full benefit of the services, service providers in rural areas must be subject to competitive forces, and Commission policies should work in tandem with, rather than in opposition to, those forces to promote lower prices and greater access for consumers.

As RCA notes, “the principles of maintaining technological neutrality and harnessing the benefits of competition are nowhere to be found in the ILECs’ latest USF reform proposals.”<sup>36</sup>

Rather, by selecting only a single service provider, the proposals before the Commission “would

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<sup>33</sup> *Id.*

<sup>34</sup> MTPCS, LLC d/b/a Cellular One Comments at 21;

<sup>35</sup> SouthernLINC Wireless Comments at 24; *See, e.g.* Louisiana Public Service Commission Comments at 5 (“Reverse auctions could cause USF funding to become unstable and unpredictable, and possibly even jeopardize future network investment in rural areas.”); Comments of Rural Cellular Association at 17 (“a right of first refusal would treat ILECs’ interests as paramount, a notion which has no basis in the Act, and would award ILECs a unilateral right to exclude wireless competitors from CAF support, further entrenching them as broadband monopolists in rural America.”).

<sup>36</sup> RCA Comments at 3.

misallocate USF support, harm competition, and deprive rural consumers of access to high-quality wireless services.”<sup>37</sup> Specifically, the sole-supported carrier will have both the capability and the incentive to price services at a price point designed to maximize profits while ensuring that competitive entry remains infeasible.<sup>38</sup> In contrast, in a market where more than one carrier is eligible for support, the supported carriers can all compete on price, driving the price of service for consumers down closer to the provider’s marginal costs while forcing carriers to compete on service quality (including download speeds). Considering the essential need for a reliable, long-term telecommunications infrastructure, the FCC should not implement any policies that would provide support for only a single provider in a given area.

### **III. NONE OF THE PROPOSALS UNDER CONSIDERATION PROVIDE ADEQUATE SUPPORT FOR MOBILE SERVICES.**

Any reform adopted by the Commission must recognize the increasing importance of wireless services, both in urban and rural areas. As Mobile Future explains, “Mobile broadband creates significant new economic opportunities for Americans and offers a powerful ‘platform for commerce,’ especially in rural areas. To fully realize the benefits, however, all Americans, not just those living in urban areas, must have access to mobile broadband.”<sup>39</sup> As such, the USA Coalition urges the Commission to reject the ABC Plan, the RLEC Plan, and the State Member Plan “because these proposals would not provide the level of funding necessary to meet the Commission’s mobile broadband goals.”<sup>40</sup>

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<sup>37</sup> *Id.* at 4.

<sup>38</sup> *See* SouthernLINC Wireless Comments at 24.

<sup>39</sup> Mobile Future at 2.

<sup>40</sup> Cellular South Comments at 6; SouthernLINC Wireless Comments at 21 (“the ILECs’ proposal to allocate \$300 million (or less) to the wireless fund, while reserving more than \$4.2 billion for themselves, will disadvantage wireless carriers unfairly and will delay (and perhaps even reverse) the continued deployment of broadband services”).

In adopting universal service reform, the Commission must be careful to ensure that the reform does “not damage the viability of basic telephone service.”<sup>41</sup> As the AARP notes, however, “[t]he ABC Plan does just that by taking high cost funding used to support voice telephone service, shifting it to broadband, thereby raising local phone rates. . . . [while simultaneously] removing the obligation to provide voice service.”<sup>42</sup> Equally problematic is the ABC Plan’s proposal to allocate only \$300 million to wireless services, while proposing to reserve at least \$4.2 billion for the ILECs proposing the plan. As RCA notes, limiting rural wireless providers to \$300 million of USF support “would dramatically undervalue the ability of wireless providers to deliver broadband service to high-cost rural communities” while also being “grossly disproportionate to the \$3 *billion* that wireless carriers contribute each year to USF.”<sup>43</sup> Also shockingly disproportionate is the fact that 14 times the amount of support would flow to ILECs when the FCC’s own data demonstrates that nearly 279 million subscribers have chosen wireless services compared to only 102 million total subscribers for ILEC services, a gulf between service options that continues to widen.<sup>44</sup>

Indeed, from a statutory perspective, as CTIA notes, “the Commission has a responsibility to ensure that mobility funding is ‘sufficient’ and ‘predictable.’”<sup>45</sup> The \$300 million included in the ABC Proposal, however, “appears insufficient to meet the needs of mobile broadband consumers in high cost areas.”<sup>46</sup> Wireless services have become increasingly

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<sup>41</sup> AARP Comments at 3.

<sup>42</sup> AARP Comments at 3.

<sup>43</sup> RCA Comments at 12 (emphasis added).

<sup>44</sup> See Federal Communications Commission, *Local Telephone Competition: Status as of June 30, 2010* at 4, 28 (rel. Mar. 21, 2011).

<sup>45</sup> CTIA Comments at 14.

<sup>46</sup> *Id.* at 14 (noting that CTIA submitted a cost study in 2008 demonstrating that it would require an investment of approximately \$22 *billion* to bring ubiquitous 3G service to unserved areas).

important to all Americans, regardless of whether they live in urban or rural areas. Any decision that would limit the ability of rural Americans to access these services at affordable prices must be rejected as inconsistent with the principle of ‘preserving and advancing’ universal service.

Rather than attempting to choose a single provider or service provider type for a geographic region, the USA Coalition urges the Commission to allow the market, rather than the Commission to determine the carriers to which support flows. As such, the USA Coalition joins with RCA in opposing “calls from ILECs to impose unjustifiable limits on the size and geographic range of any wireless fund” and endorsing an approach designed to provide support to carriers in a manner that allows consumers to select the provider of their choice while discouraging inefficient providers of service.<sup>47</sup> As RCA notes:

ILECs would no doubt prefer to shield themselves from competition in high-cost areas by relegating wireless providers to extremely high-cost areas, but ILEC protectionism cannot justify a strict geographic segregation of wireless support areas from wireline support areas. In *any* high-cost area, funding should flow to whichever provider or providers can deliver the requisite services the most cost-effectively.<sup>48</sup>

As discussed above, protection of ILECs or wireline services is inconsistent with the proper functioning of a market-based economy. By providing support based on a percentage of costs incurred (or likely to be incurred if the Commission adopts a model), carriers can be incentivized to enter a market if they are likely to win customers, and to refrain from entering the market if the business case for entry is lacking.<sup>49</sup> Other options only invite inefficiency and distort the proper functioning of a competitive market.

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<sup>47</sup> RCA Comments at 11.

<sup>48</sup> RCA Comments at 13.

<sup>49</sup> The USA Coalition has previously detailed how such a plan might work. *See* USA Coalition Comments, WC Docket No. 10-90, et al., at 27-37 (filed Apr. 18, 2011); USA Coalition Comments, WC Docket No. 10-90, et al., at 40 (filed July 12, 2010). The proposal is also discussed briefly in the USA Coalition’s comments in this proceeding. USA Coalition Comments at 13.

#### **IV. THE RECORD REFLECTS A CONSENSUS THAT SENSITIVE AREAS SHOULD NOT BE SUBJECT TO IMMEDIATE REFORM**

The record clearly reflects that there are a number of areas in the United States that present special challenges for the deployment of services. Specifically, tribal lands as well as areas outside of the contiguous 48-states such as Alaska and Hawaii all present unique circumstances that cannot be addressed immediately in any new reform efforts.<sup>50</sup> In order to avoid any negative impact on subscribership or the availability of service, there is a general consensus that implementation of any reform in these areas should be delayed until the impact of such reform can be better gauged by the Commission in the public.

As IT&E notes, “the circumstances in [territories outside of the 48-contiguous states] are dramatically different than those on the U.S. mainland, and a one-size-fits all approach designed for the mainland should not be imposed on insular territories.”<sup>51</sup> Hawaiian Telecom offers an example, explaining that “[Hawaii’s] extreme geographic isolation and strategic location, its substantial native Hawaiian population dispersed through six islands, and extraordinary challenging physical features, including volcanoes, steep mountain ranges, rain forests, deep-sea channels, and other unique characteristics, combine to make the construction and operation of advanced networks both uniquely important and especially difficult.”<sup>52</sup> These types of challenges are also prevalent in other regions, particularly Alaska.<sup>53</sup> Special consideration of these areas is required, and the Commission should consider any USF reform affecting these regions as part of a separate proceeding, delaying the imposition of any reforms adopted in this proceeding until a later time.

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<sup>50</sup> See, e.g., Hawaiian Telecom Comments; Alaska Communications systems; General Communications, Inc Comments; Gila River Telecommunications, Inc. Comments.

<sup>51</sup> Gila River Telecommunications, Inc. Comments at 2-3.

<sup>52</sup> Hawaiian Telecom at i.

<sup>53</sup> See General Communications Inc. Comments at 7-8.

## CONCLUSION

For the reasons set forth above, the USA Coalition urges the Commission to base any reforms upon the requirements of the Act and pursue rational and sustainable universal service reform that operates on a fair and technologically neutral basis in order to ensure that people throughout the United States will have access to reasonably comparable telecommunications and information services at reasonably comparable rates. Reform that reflects the requirements of the Act would better ensure that all consumers benefit from broadband and technological advances, regardless of where they live and work, than the proposals currently being considered.

Respectfully submitted,

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