BINGHAM

Andrew D. Lipman
Russell M. Blau
andrew.lipman@bingham.com
russell.blau@bingham.com
File No.: 0000354652

September 6, 2011

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: 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 of 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; Universal Service Contribution Methodology, WC Docket No. 06-122; Numbering Resource Optimization, CC Docket No. 99-200; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98; Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; IP-Engaged Services, WC Docket No. 04-36

Dear Ms. Dortch:

Virgin Islands Telephone Corporation ("Vitelco") d/b/a Innovative Telephone, by its undersigned counsel, hereby submits these brief letter comments related to the Commission's ongoing reforms to the Universal Service Fund ("USF") High Cost Program and the creation of the Connect America Fund ("CAF"). In particular, Vitelco objects to the proposals in the America's Broadband Connectivity Plan ("ABC Plan"),[1] in which all price cap LECs would receive support from the CAF in accordance with a support model, and subject to a fund cap.

The U.S. Virgin Islands are a rural, insular area, with unique service cost issues. It is appropriate and consistent with the aims of the USF program and the underlying statute, for the Commission to take special measures with regards to insular high cost areas like the U.S. Virgin Islands. A model-based approach cannot take into account the specific issues faced by providers like Vitelco. Vitelco urges the Commission to reject the ABC Plan's model-based approach to CAF support for insular areas, and instead enact a policy

[1] Letter from Robert W. Quinn, Jr., Steve Davis, Michael T. Skrivan, Kathleen Q. Abernathy, Kathleen Grill and Michael D. Rhonda to Marlene H. Dortch, Secretary, in WC Docket 10-90, *et al*, filed July 29, 2011 (the "ABC Plan").

Boston
Frankfurt
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

T +1.202.373.6000
F +1.202.373.6001
bingham.com

that will ensure support will be adequate for broadband services to be deployed, such as a reverse auction or freezing support at existing levels during the transition.

Insular areas have unique costs associated with their remote geographic locations that are not present in non-insular high cost areas. In April, as part of the Commission's first round of comments in this proceeding, Vitelco identified several examples of these unique costs that apply to many such areas, and to the U.S. Virgin Island in particular. [2] For example, costs of transporting network equipment are higher. Severe weather, such as tropical storms and hurricanes, require frequent repairs to the infrastructure, and the abrasive effects of salt in the air (a common condition on island territories), all lead to substantial increases in the actual costs of installing and maintaining networks and supplying telecommunications services. For Vitelco, in particular, because the U.S. Virgin Islands consists of three primary islands, Vitelco must typically maintain sufficient redundancy, personnel and equipment on each island to operate self-sufficiently on a day-to-day basis. In effect, Vitelco must operate three distinct networks with minimal ability to utilize economies of scale and other efficiencies that do not affect non-island territories.[3]

Vitelco, as a price cap LEC, is particularly concerned that the proposals of the ABC Plan do not reflect the realities of operating in an area such as the U.S. Virgin Islands. Under the ABC Plan, Price Cap LECs would have their CAF support levels determined by the "CQBAT Model", which, while supposedly able to take into cost differences associated with different geographic areas,[4] cannot possibly account for the unique issues associated with serving an island territory, where construction and maintenance costs can be vastly different than the mainland. These types of costs are unique to an island-based carrier, and are unlikely to be captured in any model not specific to service to island territories. Moreover, other similarly situated carriers, price cap LECs who serve insular areas have noted that the CQBAT Model does not include input data from insular areas.[5]

If the CQBAT Model does not include inputs from insular areas, it should not be used to determine the appropriate support for insular areas. The Commission has special statutory authority to treat insular areas as separate and distinct from rural or other high costs areas.[6] Providing a different support mechanism in insular areas is therefore permissible under the Commission's USF authority. Moreover, failing to provide a support mechanism that is unique to the challenges of an insular area would likely violate the Commission's statutory requirement to provide USF support that is adequate to support services in insular areas.

The ABC Plan does provide an interesting approach to limit the size of the CAF through its modeling. But, the model-based support is likely not correct to properly fund

[2] Comments of Virgin Islands Telephone Corporation d/b/a Innovative Telephone, WC Docket No. 10-90, *et al*, filed 18, 2011.

[3] *Id.,* at 5.

[4] ABC Plan, at Attachment 3, Section 3.3.c.

[5] Comments of Puerto Rico Telephone Company, Inc., WC Docket No. 10-90, filed Aug. 24, 2011, at 9.

[6] 47 U.S.C. § 254(b)(3).

broadband deployment in insular areas. The solution is to exempt all LECs, including price cap LECs, that serve insular areas from the ABC Plan CAF cap and its model-based support. Rather, the Commission should acknowledge the unique cost issues associated with insular areas and provide CAF support using a method that ensures that support given will be sufficient to deploy broadband to these areas. At a minimum, the Commission should ensure that insular areas will receive no less under the CAF than they would have received under the legacy high-cost support mechanisms.

By removing price cap LECs in insular areas from the ABC Plan cap, the Commission can balance the desire to keep the CAF manageable in size, but also ensure that support is sufficient to deploy broadband in insular areas. Otherwise, the ABC Plan is unlikely to provide sufficient support to provide broadband to the U.S. Virgin Islands. The CQBAT Model does not contain inputs from insular areas, including the U.S. Virgin Islands, likely understates the expenses associated with the unique service environment that is an offshore U.S. territory comprised of multiple separate islands, and will likely provide insufficient support to meet the aims of the National Broadband Plan and provide nearly ubiquitous broadband service.

Sincerely yours,

/s/

Andrew D. Lipman
Russell M. Blau

Counsel for Virgin Islands Telephone Corporation