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September 29, 2011

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

Re: Federal-State Joint Board on Universal Service
WC Docket No. 05-337; CC Docket No. 96-45;
GN Docket No. 09-51; WC Docket No. 06-122
CC Docket No. 01-92

Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, and on behalf of MTPCS, LLC, we hereby provide you with notice of an oral ex parte presentation in connection with the above-captioned proceeding. On September 27, 2011, undersigned counsel, along with Jonathan Foxman and Julia Tanner of MTPCS, LLC met with Angela Kronenberg, Ruth Milkman, and Erik Salovaara to discuss universal service and intercarrier compensation reform.

The company submitted documents, one of which contains confidential information on the company's business operations and ability to continue providing service in high-cost rural areas. MTPCS will submit to the Commission, under separate cover, a copy of the confidential document which will be marked "**CONFIDENTIAL INFORMATION – NOT FOR PUBLIC INSPECTION / SUBJECT TO PROTECTIVE ORDER IN CC DOCKET NO. 01-92 and 96-45, WC DOCKET NOS. 05-337, 06-122, AND GN DOCKET NO. 09-51 BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**." The other documents are enclosed.

MTPCS noted the importance of having more than one company serve areas, even if carriers are required to share an amount of support that does not exceed the amount estimated to be necessary for only a single network. MTPCS noted that portability works today to keep aggregate support low while ensuring deployment throughout much of the country, even though that support is shared among more than one carrier.

MTPCS noted that importantly, under any "single winner" approach, the Commission would risk serious harm to consumers in a manner precisely the opposite of the goals of the program. For example, if the agency chooses only one company in each area to receive support and other companies accordingly leave an area due to the phase down or elimination of support, rural areas currently served could become unserved. Whether due to negligence, bankruptcy, poor management, unforeseen financial constraints, changed priorities, or numerous other reasons, if a "single winner" eventually proves unable or unwilling to fulfill its obligations, it may well be the case that any former ETC recipients will have decommissioned their cell sites. The consequence then would be loss of service, including invaluable 911 capabilities, for consumers and a very real problem for the Commission.

Ordinarily, infrastructure is built over years or decades of support. It would simply not be realistic to expect that a carrier could or would move back into a high cost area, secure new leases and site equipment, and reconstruct infrastructure. Competition and portability, at no extra cost, provide a critical insurance policy against the kind of non-performance that very well might harm consumers and reflect poorly on the Commission's program. If one carrier fails to fulfill its obligations, another carrier would still be available, rather than having a lapse of years of service to the area.

MTPCS discussed the importance of phasing down ongoing support under the CETC mechanism simultaneously with the phasing in of a replacement mechanism that provides ongoing support for mobile broadband. Continuity of support is important for business planning and to avoid reductions in existing coverage, often in areas where a CETC provides the only coverage, or the only alternative rate plans and options for consumers. MTPCS noted that a small business exemption, as proposed in its comments, would help buffer the adverse impact of gaps or decreases in support. Such an exemption would help minimize the rollback of infrastructure and service to the millions of rural customers currently served as a result of CETC support.

MTPCS stated that the Commission should not limit the amount of support available to mobile services providers until a cost model has been developed and adopted to determine an appropriate level of support. MTPCS reiterated support for the CostQuest cost model that MTPCS previously submitted, as a mechanism to determine the floor of support provided for mobile services in high cost areas.

MTPCS noted that the reductions proposed in the ABC Plan to intercarrier compensation and access per-minute rates would not come remotely close to making up for reductions in CETC support. MTPCS provided the enclosed breakdown of access and ICC charges to MTPCS and its affiliates, as illustration of the extreme disparity between those savings – less than $200,000 across all its markets – in comparison to millions in universal service support it utilizes to provide mobile services throughout its designated areas, resulting in telecommunications, jobs and economic development for the citizens of rural states.

If you have any questions or require any additional information, please contact undersigned counsel directly.

Sincerely,

David A. LaFuria

Enclosures

cc: A. Kronenberg, Esq.
R. Milkman, Esq.
E. Salovaara, Esq.
Mr. J. Foxman
J. Tanner, Esq.

CELLULARONE®

FCC Presentation

September 27, 2011

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Agenda

I. CETC Support Must Not Be Phased Down Prior to Phase-Up of Replacement Mechanism

II. Continuing Mobile Support is Critical

III. Consumers & Cost Savings Plan

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Phase Downs Must Not Precede Phase Ups

- Timing is everything. Mobility support must not be phased down before a replacement mechanism is in place. States such as Montana are underfunded. As shown in data we have filed, opex for only some high cost sites equates to the full support received annually in that state, without even addressing capex. A gap in funding for such areas would retract existing coverage, harming consumers.

- Businesses cannot provide service, retain loans and investments, and continue to convert to broadband if support is cut before new support arrives.

- Business plans must be made. Support must be predictable, uninterrupted, and reasonably targeted. Loans and broadband conversions cannot be continued in reliance upon wildly fluctuating amounts of support.

- CTIA, US Cellular, TDS, RCA and others have said the agency *must "ensure that a phase down of competitive ETCs' existing high-cost support is not commenced until replacement funding mechanisms have been adopted and have been made operational."* The Montana Commission (MPSC), like others, has said "Future wireless CETC funding must be sufficient and predictable."

- Otherwise, rural carriers would have no choice but to decommission sites and reduce existing coverage that is relied upon by consumers, businesses, and public safety. *A gradual glide path is essential in order to diminish any rapid impact upon local unemployment, state economies, and existing broadband service coverage.*

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Continuing Mobile Support is Critical to Broadband Deployment

- **Sufficient CETC Support Is The Right Thing To Do.** The Chairman has noted that competition is critical and consumers are rapidly moving to mobile broadband. Failure to adequately support competition would not be technologically neutral, and would subvert consumer interests in the best services at reasonably low prices. Moreover, it would result in loss of broadband coverage. We have filed data showing USF is essential in light of very high opex in high cost areas. Mobile broadband requires even greater investment, but it is still a cost savings over landline broadband.

  "We all reap the benefits of this incredible technology <u>because there has been fierce competition in this industry</u>, which has brought all of us innovative and affordable products and services."

  - Department of Justice, Remarks of Deputy Attorney General James M. Cole, Press Conference (August 31, 2011) (emphasis supplied).

- **Supporting CETCs Saves Funds for Consumers and the Fund.** CETCs keep subscriber rates reasonable and spur innovation and consumer broadband adoption. Further, mobile broadband is more efficient to deploy than landline. Supporting mobility deploys more broadband with lower Fund size.

- The record supports technologically neutral mechanisms. See, e.g., NCTA, Sept. 26, 2011; CTIA *ex parte,* Sept. 22, 2011 ("the record is overwhelmingly clear that consumers currently demand mobility and broadband").

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- Continuing Mobile Support is Critical, cont'd.
  - **Adequate and Predictable Support.** The FCC should reserve any decisions that could adversely affect mobility fund size, including any decision to phase down existing support, until it has determined the new support mechanism. Any other result would be arbitrary and capricious.
  - Disbursements must rationally relate to amounts needed for broadband. We respectfully urge the agency to wait to make any decisions that would alter support for mobile carriers. Cost models to extrapolate nationwide mobile support are in process. Small and mid sized rural carriers incur high but rational costs for which rural subscriber revenues do not compensate.
  - CTIA's recent CostQuest study asserts that achieving ubiquitous access to mobile broadband services "will require between 7.8 to 21 billion dollars in initial investment alone". CTIA states: ***"a robust and ongoing mobility fund is necessary to drive mobile broadband throughout the country to the places that consumers live, work, and travel. "*** CTIA *ex parte*, Sept. 22, 2011, at 1.
  - Using USF funds to pay ILECs for access/ ICC rate reductions would hardly benefit small carriers, unless non-minute-based transport is included.

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ROFRs Would Not Be Forward-Looking or Consumer Focused

- Wireless is cutting edge, faster than ever, popular, and flexible. Its deployment and operations utilize support to meet future needs of the public in rural areas.
- As Chairman Genachowski has stated :

  "Mobile broadband is being adopted faster than any computing platform in history. The number of smartphones and tablets being sold now exceeds the number of PCs."*

- Rural mobile networks supporting those devices cannot be left out in the cold. Consumers increasingly use these services. Cisco projects 92% mobile broadband CAGR 2010-2015. Adoption increases as speeds are increasing, with 10-16 Mbps for Verizon in actual commercial settings, and AT&T testing averaging downlink 23.6 Mbps and uplink 15.2 MBps; anticipated 2012 LTE capabilities are 1 Gb/s downlink / 500 Mbps uplink.

- Chairman Julius Genachowski, "The Clock is Ticking," Remarks on Broadband (March 16, 2011), available at http://www.fcc.gov/document/genachowski-broadband-clock-ticking

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Consumers And Cost Savings Plan

Wireless Cost Model.

- Professional cost model is extensive and well researched. Good policy is supported by good data. Reverse auctions, although helpful in some contexts, would in this context – support that is essential for provision of services – counteract and diminish broadband coverage by awarding a monopoly on support to a single carrier. If used, they must be applied to all support for ILECs as well, to be competitively neutral.

- Cost models are the logical solution. This was recognized in ILEC context and to be fair must apply to CETC support as well. We are working with CostQuest on model that is technologically neutral, yet facilitates cost savings and innovations.
- Recognize exploding CAGR of mobile broadband, and consumer technologies that increase in-building penetration – retail femtocells, repeaters, and hotspot products.
- CTIA study demonstrates the high cost of serving remaining areas.

Minimize Economic Impact on Small Businesses.

- The FCC must exempt small business CETCs from diminishing support. Definition: U.S. telecom entities employing 1500 employees or less (SBA definition).
- The MPSC supports small business exemption if it sufficiently supports CETCs.
- $300 million / year lets rural consumers participate in the mobile revolution.
- Helps the agency meet the President's goals and comply with the Reg. Flex. Act.

Recognize States' prior designations and statutory authority to designate one or more recipients of high cost funding per area.

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	Current Usage				Proposed Usage		Impact from Rate of $0.0007		
	ILEC Billed Local MOUs	ILECs Bill MTPCS	MTPCS Billed Local MOUs	MTPCS Bills ILECs	ILEC Bills MTPCS	MTPCS Bills ILECs	ILECs Bill MTPCS	MTPCS Bills ILECs	Net Effect
Montana									
May	2,512,842	$ 11,664.10	1,857,759	$ 5,795.03	$ 1,758.99	$ 1,300.43	$ 9,451.18	$ 4,110.41	$ 5,340.78
June	2,513,572	$ 11,732.26	1,860,106	$ 5,895.51	$ 1,759.50	$ 1,302.07	$ 9,513.92	$ 4,205.75	$ 5,308.17
July	2,408,895	$ 11,320.84	1,821,825	$ 5,698.91	$ 1,686.23	$ 1,275.28	$ 9,185.43	$ 4,032.88	$ 5,152.55
Montana Total	**7,435,309**	**$ 34,717.20**	**5,539,690**	**$ 17,389.45**	**$ 5,204.72**	**$ 3,877.78**	**$ 28,150.54**	**$ 12,349.04**	**$ 15,801.50**
Oklahoma									
May	351,744	$ 1,339.20	187,439	$ 706.11	$ 246.22	$ 131.21	$ 1,093.01	$ 574.89	$ 518.12
June	335,637	$ 1,231.70	179,306	$ 655.32	$ 234.95	$ 125.51	$ 996.72	$ 529.81	$ 466.91
July	314,308	$ 1,362.85	165,493	$ 646.71	$ 220.02	$ 115.85	$ 1,142.85	$ 530.87	$ 611.98
Oklahoma Total	**1,001,689**	**$ 3,933.74**	**532,238**	**$ 2,008.14**	**$ 701.18**	**$ 372.57**	**$ 3,232.57**	**$ 1,635.57**	**$ 1,597.01**
Texas									
May	4,080,902	$ 20,710.63	1,748,241	$ 8,511.47	$ 2,856.63	$ 1,223.77	$ 17,854.00	$ 7,287.70	$ 10,457.30
June	4,245,762	$ 21,600.71	1,826,784	$ 8,981.87	$ 2,972.03	$ 1,278.75	$ 18,628.68	$ 7,703.12	$ 10,806.08
July	3,983,880	$ 19,707.26	1,729,972	$ 8,152.65	$ 2,788.72	$ 1,210.98	$ 16,918.54	$ 6,941.67	$ 9,719.56
Texas Total	**12,310,544**	**$ 62,018.60**	**5,304,997**	**$ 25,645.99**	**$ 8,617.38**	**$ 3,713.50**	**$ 53,401.22**	**$ 21,932.49**	**$ 30,982.94**