

**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
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**COMMENTS  
of  
ATC COMMUNICATIONS**

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## Introduction and Summary

The Federal Communications Commission's (Commission or FCC) *Report and Order and FNPRM*<sup>1</sup> in the above captioned proceeding requests comment on proposed changes to the existing Universal Service Fund (USF) and Intercarrier Compensation (ICC) mechanisms for rural rate-of-return carriers, among other issues. Specifically, the FCC requests comments on Sections XVII.A-K of the *FNPRM*, which address a wide variety of USF related issues.

ATC Communications<sup>2</sup> [ATC] submits these comments for the FCC's consideration. ATC is a rural telecommunications provider serving 3,655 voice access lines and 1926 broadband customers in the States of Idaho & Utah. The exchanges served are Albion, Almo, Elba, Malta, Raft River, Malad and Holbrook in South central Idaho and the small community of Yost in northern Utah. And over 80 miles north of those exchanges (2.5 hour drive) ATC serves the exchanges of Arco, Howe, Moore, and Mackay in central Idaho.

The economies of the service areas are based primarily around agriculture, ranching, and recreation-related activities, with some small industrial and natural resource related businesses. The exchanges are all centered on small to medium sized communities that provide the basic necessities, as well as some non-agricultural employment opportunities for area residents.

Due to the vast area that ATC serves, the topography varies drastically from wooded, high-altitude mountain areas to level farmland to rolling hills with wooded areas along creeks and

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<sup>1</sup> *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, *Universal Service Reform – Mobility Fund*, WT Docket No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, FCC 11-161 (rel. November 18, 2011) (*Report and Order and FNPRM*).

streams. The geology of the area ranges from silt to large areas of exposed igneous flows to large granite cobble fields. The vast majority of the area ATC serves contains some rock which adds to constructions costs. The following characteristics are true of ATC:

- ATC is the Carrier of Last Resort designated by the Idaho Public Utilities Commission and the Utah Public Service Commission, which legally obligates the company to provide telecommunications service to all requesting customers within its service territory.
- ATC is the Eligible Telecommunications Carrier (ETC) determined by the Idaho Public Utilities Commission and the Utah Public Service Commission to provide universal service within the company's designated service territory.
- ATC receives High Cost Support from the Federal Universal Service Fund. This support totaled \$4,035,527 in 2010<sup>3</sup> and comprised over 34% of ATC revenues in 2010. Support came from the following sources:
  - High Cost Loop Support (HCLS)                      \$2,246,921
  - Interstate Common Line Support (ICLS)            \$1,330,482
  - Local Switching Support (LSS)                      \$458,124
- ATC generates substantial revenues from providing intrastate switched access and reciprocal compensation services. In 2010 intrastate switched access and net reciprocal compensation revenues totaled \$228,772.
- ATC provides voice and broadband services to schools, libraries, rural health care facilities, governmental agencies, and cellular towers.

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<sup>3</sup> 2010 revenues are used throughout these comments because final 2011 numbers are not yet known. We believe that 2010 revenues are reasonably representative of 2011.

- ATC is one of the, if not the, largest employers in the company's rural service territory, providing jobs and financial stability in rural areas of Albion, Almo, Elba, Malta, Raft River, Malad, Holbrook, Yost, Arco, Howe, Moore, and Mackay. In 2010, ATC employed 34 people and provided combined payroll and benefits of \$3,045,706.
- ATC has deployed substantial financial and human resources to provide voice and broadband services under the existing rate of return rules prescribed by the FCC and by the Idaho Public Utilities Commission and the Utah Public Service Commission. In 2010 alone, ATC invested \$2,184,074 in regulated facilities.
- ATC would not have had the financial resources to deploy and maintain either voice or broadband services without rate of return regulation and the support of the Universal Service Fund under the existing rules.
- ATC is very concerned with the potential financial implications of the *Report and Order and FNPRM* and the impact they will have on ATC's ability to continue to provide high quality voice and broadband services at the public interest standards established by the Commission.

In these comments, ATC outlines the impacts that adoption of the limitations on capital and operating expenses, as proposed in the *Report and Order and FNPRM*, would have on its financial results.

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**I. Analysis Performed by ATC**

In order to provide relevant financial context to the FCC in these comments, ATC engaged Moss Adams LLP<sup>4</sup> to perform a detailed financial analysis of the potential impacts of the limitations on capital and operating expenses proposed in the *Report and Order and FNPRM*. This analysis primarily focused on the impacts of the proposed regression analysis identified in

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<sup>4</sup> Moss Adams LLP (Moss Adams) is the 11<sup>th</sup> largest accounting and consulting firm in the United States, with more than 225 partners and 1,800 staff. Moss Adams' Telecom Group has served the telecommunications industry since 1957. Today, they provide audit, tax, and consulting services to more than 80 small and mid-sized telecommunications carriers throughout the United States and its territories.

Appendix H to the *Report and Order and FNPRM*. This analysis was performed using ATC data used by, and provided by, the FCC in the development of its regression analysis. In doing so, Moss Adams recreated the regression analysis performed by the FCC and reproduced the same results. In addition, Moss Adams also utilized other information generally available from ATC in the analysis. The following comments include our overall assessment of the FCC's regression analysis and provide a summary overview of the financial impacts on ATC, including the impacts of changes in the analysis proposed by ATC.

## **II. The Regression Model is Overly Complex and Unpredictable Thus Discouraging Future Investment.**

While other comments will follow on the application of regression caps, ATC feels the most critical issue, as it relates to us, is the fact the model and approach taken is so complex and unpredictable that we cannot adequately plan for the future. ATC recently secured a \$17 million dollar loan from Rural Development Utilities Program (RDUP) to modernize the network and comply with the new FCC broadband requirements. However, as it stands today, ATC has no straight forward means of understanding the results relied upon by the Commission and predicting capped values in the future. Use of the tools that the FCC utilized in developing its regression analysis, such as the Tele Atlas Telecommunications Suite<sup>5</sup> and Stata<sup>6</sup> software is costly and requires a high level of sophistication to develop and modify inputs, run the models and analyze the results. The Commission's approach is not one that can be easily predicted or replicated, and as a consequence, we cannot adequately plan for the future.

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<sup>5</sup> Tele Atlas Telecommunications Suite 2010.6 is the FCC's source of study area boundaries used in the regression analysis. See Appendix H, paragraph 5 and footnote 10.

<sup>6</sup> Stata is the software used by the FCC to run the regression analysis. This is not referenced in the *Report and Order and FNPRM*, however, we were informed of the need to purchase the Stata software to replicate the analysis performed by the FCC, using the data set provided by the FCC.

Because cost recovery in this scenario is not predictable, we are seriously considering delaying and potentially not drawing down the loan funds to invest in future capital expenditures for fear we will not be able to repay the debt. This outcome is contrary to the Commission's intent; to deploy 4 Mbps downstream/1 Mbps upstream broadband services to all areas of the country. However, in order to avoid this outcome, and assuming that regression caps will be utilized, underlying data and calculations must be readily available to carriers like ATC to allow for adequate financial and strategic planning. We believe that a minimum of five years of data should be made available to ATC, so that they can make appropriate financial decisions based on known cost recovery mechanisms

### **III. The Model Does Not Yield Consistent Results for Similarly Situated Companies**

ATC notes that the FCC's model used to perform the regression analysis did not take some of the primary drivers of loop costs into account, such as the length of loops – a major factor leading to high loop costs. In ATC's case, it has .65 access lines per mile. The model also does not take into account the poor soil conditions and rocky terrain that ATC must build in, which often requires that rock be cut or bored to bury cable plant. These conditions often cause significant delays and cost increases to place cable and central office plant.

### **IV. The FCC's Regression Analysis Does Not Consider the Impacts of Depreciation Reserve**

The FCC's model used to perform the regression analysis does not take the depreciation reserve of the plant being limited into account; it is purely analyzed on a gross plant value. Companies like ATC deployed the network years ago and, like many, face the need to upgrade facilities as the plant is reaching the end of its useful life. In addition, ATC will soon need to

make the necessary network changes, which will require tremendous investment, to meet the Commission's 4 Mbps downstream/1 Mbps upstream broadband requirements. The regression model, as proposed does not allow for this, and its failure to recognize the impacts of depreciation reserve is a significant flaw in the model.

## **V. The Limitations Are Applied Incorrectly to the High Cost Loop Support Algorithm**

ATC believes there are three accounting issues that must be addressed in the calculation and application of the proposed regression-based limitations. First, the High Cost Loop Support ("HCLS") data inputs ("data lines" or "DL") should be limited, not the outputs ("algorithm lines" or "AL"). Second, the limitations must take into account the impact of accumulated depreciation and other Part 32 accounts on the calculation of support. Third, the methodology used to calculate the limitations on depreciation expense must be modified.

ATC believes that the limitations should be applied to the HCLS data lines instead of the algorithm lines, which would allow the 26 step algorithm to work as designed. The current limitation of the algorithm lines does not account for the interrelationship between many of the data lines used in the calculation of support. It should be noted that all of the algorithm lines are calculations based on various data lines, so any proposed limitations can also be accomplished by adjusting the data lines. As currently proposed, the FCC's regression model limits outputs, rather than limiting inputs and allowing the inputs to be run through the model. An excellent example of this is AL 3, also referred to as the "A" Factor, which is calculated as Cable and Wire Facilities (CWF) divided by Total CWF. The "A" Factor is used in the allocation of expenses associated with CWF. AL 3 is one of several algorithm steps that uses both AL and DL inputs to produce the result; in this case AL1, DL 255 (Account 2400 - Total CWF) and DL 815 (Account

2680 – Amortizable Tangible Assets – CWF). The FCC’s proposed treatment only limits the AL1 amount, however, neither DL 255 (which includes AL1) nor DL 815 are adjusted. As a result, the algorithm is not allowed to calculate support as it was intended and produces an incorrect result.

## **VI. The Limitations Are Missing Critical Components**

As mentioned above, accumulated depreciation and other Part 32 accounts must be taken into consideration if the FCC is going to limit the 11 proposed algorithm lines, or follow the approach to limiting the data lines described above. The FCC’s proposed regression analysis does not limit the accumulated depreciation, nor does it remove amounts from other associated accounts. If the FCC is going to limit investments, the following data lines should also be analyzed:

DL 160 – Account 2001 – Total Plant in Service

DL 190 – Account 3100 – Accumulated Depreciation

DL 240 – Account 2230 – COE Transmission Equipment

DL 250 – Account 2230 – COE Category 4.13

DL 255 – Account 2410 – Total CWF

DL 270 – Account 3123 – COE Transmission Accumulated Depreciation

DL 280 – Account 3124 – CWF Accumulated Depreciation

DL 700 – Cost Study Average CWF – Total Account 2410

DL 710 – Cost Study Average CWF Cat 1 – Total Subscriber Line Plant

By not analyzing these data lines, the FCC’s regression analysis yields flawed and punitive results. In addition, as discussed above, limiting the algorithm lines and not the data lines does not allow the HCLS algorithm to work as designed. There could be some question as

to how to appropriately limit the accumulated depreciation reported on DL 190, DL 270, and DL 280, but this could be handled one of two ways. First, a ratio of limited investment in the associated plant account to the total plant account could be developed and applied to the accumulated depreciation. Alternatively, the limited plant could be handled as a retirement, in which case Part 32 for retirement accounting would treat the investment as fully depreciated. Whichever method is selected would be more appropriate than the current approach of ignoring depreciation reserve and other associated accounts in the algorithm. The limitation of algorithm lines rather than data lines yields inappropriate results and ignores the net book value of the assets being removed.

## **VII. The FCC's Regression Analysis Does Not Appropriately Calculate Limitations on Depreciation Expense**

Depreciation expenses have not been properly accounted for in the FCC's regression model. Specifically, depreciation expenses should not be analyzed independently via regression, as they are a byproduct of the associated plant investment. Instead, depreciation expenses should be reflected as a function of the asset values removed. The FCC's current, regression-based approach results in limitations on depreciation expenses that are excessive and inconsistent with Part 32 accounting principles. The FCC's current approach also creates situations where depreciation expense is limited when the associated plant account is not limited. This would suggest that the depreciation rates for these accounts are excessive, which is nearly impossible in a regulated environment. ATC's depreciation rates are approved by the Idaho Public Utilities Commission and the Utah Public Service Commission and are therefore not subject to unilateral adjustment by the company. Finally, we are audited annually by an independent CPA firm that verifies the proper use of the approved depreciation rates, thus there is minimal risk of improper

application. Therefore, we recommend that regression not be used to limit depreciation expense. Instead, we believe that depreciation expense limitations should be computed as the percentage of limitation of the associated plant investment multiplied by depreciation expense.

## **VIII. Conclusions**

ATC is very concerned for the ongoing ability to meet customer demands and maintain its present level of service quality in light of the significant changes outlined in proposed new FCC rules. In addition, we are very concerned that we will not have the recovery mechanisms available to repay the \$17 million RDUP loan, which is intended to allow ATC to replace aging copper plant and extend fiber to nearly 65% of its subscribers. As a result, should the regression caps not be changed to allow for more transparency which will yield better clarity and planning, we may have little choice but to delay or dismiss these construction plans to provide the advanced broadband services that the Order set out to accomplish.

January 18, 2012

Respectfully Submitted,

/s/ Rich Redman

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