

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

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 a 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 CTIA–THE WIRELESS ASSOCIATION®**

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**COMMENTS OF CTIA–THE WIRELESS ASSOCIATION®**

**I. INTRODUCTION AND SUMMARY**

CTIA–The Wireless Association® (“CTIA”) files these comments in response to the Commission’s Further Notice of Proposed Rulemaking.<sup>1</sup> This initial comment period focuses on the remaining universal service funding issues,<sup>2</sup> and it is critical that the Commission’s next steps reflect that mobile wireless carriers are rapidly deploying fast new 4G networks that will provide meaningful, facilities-based competition to fixed broadband networks, that consumers

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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 an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, 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, WT Docket No. 10-208, Report and Order and FNPRM of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“Order” or “FNPRM”).

<sup>2</sup> *Id.* at ¶¶ 1028-1295.

are rapidly adopting mobile broadband services, yet there remains a continued need for universal service support for mobile broadband networks in many of the highest cost areas of the country. Specifically, CTIA encourages the Commission to take the following steps.

First, the Commission should begin implementation of the Mobility Fund and conduct the Phase I auction as soon as practicable this year to provide support for unserved consumers in areas unreached by 3G networks. Once the Phase I auction is complete, both the Commission and affected stakeholders will have the opportunity to assess the Phase I reverse auction funding mechanism. The lessons learned from Phase I will be critical to determining the appropriate structure and operation of Phase II. While CTIA encourages the Commission to delay final decisions on the structure of Phase II of the Mobility Fund until the completion of the Phase I auction, CTIA looks forward to working with the Commission on the development of Phase II and offers below some preliminary reactions to the FNPRM's proposals.

Second, the Commission should calibrate its reporting and performance obligations carefully so that they adequately ensure accountability while not discouraging participation in the new universal service mechanisms. Wireless carriers, in particular, are central to the new Mobility Fund, and also are likely to be bidders in CAF auctions, to the extent that any price cap incumbents decline to make statewide commitments. As a result, the new reporting and performance obligations should recognize the particular characteristics and benefits of mobile wireless networks.

Third, the Commission should ensure that the competitive bidding component of the Connect America Fund for price cap areas is competitively neutral and provides broadband to as many Americans as possible with the budgeted funds. Given that wireless carriers will be competing with price cap incumbent LECs that decline the Connect America Fund's initial state-

level commitment, it is imperative that the Fund's competitive bidding component is equitable to all potential participants, including mobile wireless providers. To that end, this competitive bidding process should have its own broadband performance requirements, including explicit consideration of the value of mobility.

Lastly, the Commission should shift all remaining legacy high-cost support for rate-of-return carriers to the Connect America Fund, and CTIA urges the Commission to adopt a set schedule for this transition as quickly as practicable. The Commission took a number of important steps in the Order to reform legacy rate-of-return support mechanisms, but those mechanisms remain inherently inconsistent with the Order's forward-looking approach, and inequitable to carriers competing against rate-of-return carriers. In the interim, CTIA agrees with a number of the Commission's additional reform proposals – including reducing the authorized interstate rate of return – and offers specific suggestions for implementing these reforms.

## **II. THE FCC SHOULD CAREFULLY CONSIDER ITS EXPERIENCE WITH PHASE I OF THE MOBILITY FUND BEFORE FINALIZING THE RULES FOR PHASE II**

The FNPRM seeks comment on a number of questions about Phase II of the Mobility Fund that, as discussed in more detail below, will be far easier to answer intelligently once parties and the Commission have had the experience of the Phase I Mobility Fund auction process. CTIA reminds the Commission that the Phase II Mobility Fund will play an important role in providing support for many high cost areas. Decisions regarding how such support is allocated will impact both the options available to consumers in rural areas, as well as affecting the mobile providers who serve those areas. Thus, the Commission must proceed carefully as it implements a permanent mechanism designed to provide ongoing support in high cost areas.

**A. Phase I of the Mobility Fund Will Provide Valuable Experience That Should Inform Decisions on Phase II**

The Commission established the Mobility Fund to provide high-cost support to mobile providers in those areas in which universal service funding is necessary for consumers to receive the benefits of mobility. The Commission concluded correctly that “ubiquitous mobile coverage must be national priority,” and explicitly included “ubiquitous availability of mobile service as a universal service goal.”<sup>3</sup> The new Mobility Fund—central to achieving that goal—is divided into two components: Phase I will provide one-time support through a reverse auction scheduled to be held later this year, and Phase II will provide ongoing support through a to-be-determined mechanism beginning in 2013. One of the proffered benefits of this two-step approach is that Phase I will “provide the Commission with experience in running reverse auctions for universal service support,” allowing the Commission and interested parties to view the actual results to determine the strengths, and weaknesses of a reverse auction mechanism.<sup>4</sup> This is a sensible approach, and final decisions on the appropriate structure of Phase II should be deferred until both the Commission and affected stakeholders have the opportunity to evaluate the Phase I auction mechanism.

The auction for Phase I of the Mobility Fund will provide valuable experience in the use of competitive bidding as a means to distribute universal service support. CTIA encourages the Commission to carefully examine the outcome of the Phase I auction, including the Commission’s choices regarding auction design, before completing its implementation of Phase II of the Mobility Fund. CTIA recognizes that the goals and purposes of Phase I and Phase II are somewhat different from one another, but the fact remains that the Phase I auction will be the

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<sup>3</sup> Order at ¶¶ 52, 295, 298.

<sup>4</sup> Order at ¶ 299.

first universal service auction that the Commission has ever held. Thus, it inevitably will provide important broad lessons about the use of an auction in the universal service context – lessons that should be applied, as relevant, to the formulation of the Phase II Mobility Fund. It is critically important that the Commission get the \$500 million Phase II mechanism right so that millions of Americans will receive and maintain next-generation mobile broadband service. As noted above, the design and implementation of the permanent Mobility Fund will also affect the business decisions of mobile providers who already serve, or are contemplating expanding service, in high cost rural areas.

The FNPRM seeks comments on a number of important issues regarding the ultimate structure and operations for Phase II. The most central of these is whether to use a reverse auction or a cost model as the mechanism to distribute support to providers of mobile broadband services in areas where such services cannot be sustained or extended without ongoing support.<sup>5</sup> If an auction ultimately is used for Phase II, the experience of Phase I should inform issues such as identifying areas eligible for support,<sup>6</sup> appropriate bidding units,<sup>7</sup> term of support,<sup>8</sup> service obligations,<sup>9</sup> and a host of other auction format issues.<sup>10</sup>

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<sup>5</sup> FNPRM at ¶¶ 1122, 1174-88.

<sup>6</sup> FNPRM at ¶¶ 1123-32.

<sup>7</sup> FNPRM at ¶ 1134.

<sup>8</sup> FNPRM at ¶¶ 1138-39.

<sup>9</sup> FNPRM at ¶¶ 1136-51.

<sup>10</sup> *See, e.g.*, FNPRM at ¶¶ 1154-61.

While the Commission gathers information regarding competitive bidding through Phase I, it should concurrently continue to explore the potential benefits of a model-based approach.<sup>11</sup> For example, as part of its analysis, the Commission could compare the results of its modeling efforts with specific bids placed under the Phase I auction. Such a comparison might provide a useful benchmark for the Commission and commenters, as well as offer useful insights into the efficiency and accuracy of both auctions and modeling.

Importantly, such an examination need not, and should not, delay the ultimate adoption of the Phase II mechanism. Under the current schedule, the Phase I auction is to be held late this year, and the Phase II auction is targeted for approximately one year later.<sup>12</sup> Thus, there will be sufficient time after the Phase I auction to finalize the plans for the structure of Phase II. CTIA urges the Commission to ensure that Phase II support begins to flow in third quarter of next year as planned, given that wireless providers across the nation will see their legacy universal service support—which is critical to extending, maintaining, and updating networks to consumers—phased out starting this July.<sup>13</sup>

## **B. Structure of an Auction-Based Process**

While CTIA encourages the Commission to defer final decisions on the implementation of Mobility Fund Phase II as described above, CTIA provides preliminary comment on several aspects of the FCC's proposed structure for an auction-based process in the event the Commission chooses to adopt such an approach. CTIA focuses these comments today on three areas of particular import.

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<sup>11</sup> FNPRM at ¶ 1176 (noting that US Cellular and MTPCS filed models that estimate the cost to provide mobile service in unserved areas).

<sup>12</sup> Order at ¶ 28.

<sup>13</sup> Order at ¶ 513.

Identifying Areas Eligible for Support. CTIA agrees that census blocks are likely to be a reasonable unit to identify areas eligible for support.<sup>14</sup> The Commission has observed that because census blocks are relatively small, however, some aggregation provisions may be necessary. In this regard, the Commission should use its experience in Phase I in order to carefully evaluate any benefits or challenges associated with aggregation approaches. However eligible areas are identified, CTIA encourages the Commission to release its proposed list of eligible areas and aggregation rules well in advance of bidding, so that providers have ample opportunity to consider bidding options.<sup>15</sup> Review by potential bidders will provide an important validation check on the list of eligible areas.

Bidding Units. CTIA commends the Commission for recognizing the value of mobility in proposing to use road miles as the “unit” for bidding in a given geographic area.<sup>16</sup> Using road miles as, at minimum, an element in the bidding unit equation recognizes the importance of ensuring that mobile services are available to consumers where they live, travel, and work. Such an approach would be consistent with CTIA’s 2011 Ubiquitous Mobility Study.<sup>17</sup> CTIA encourages the FCC to examine results of Phase I before deciding whether to use road miles as the sole bidding unit, or as one element of a formula to determine the appropriate bidding unit.

Service Obligations. CTIA has no quarrel with the FNPRM’s proposal to require Phase II recipients to provide reasonably comparable rates, given the proposal’s firm footing in the

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<sup>14</sup> FNPRM at ¶¶ 1128-30.

<sup>15</sup> See, e.g., FNPRM at ¶ 1130.

<sup>16</sup> FNPRM at ¶ 1134.

<sup>17</sup> CostQuest Associates, “U.S. Ubiquitous Mobility Study, September 21, 2011,” attachment to letter from Scott Bergmann, CTIA, to Marlene Dortch, FCC, WC Docket Nos. 10-90 *et al.*, at 4 (filed Sept. 22, 2011)(finding “any analysis of mobile broadband coverage should include an analysis of not only where customer live, but also where they work and transit”).

statute.<sup>18</sup> The FNPRM highlights appropriately that “pricing of mobile voice and broadband services,” may “present ... unique features” relevant to adopting a methodology for comparing rates in accordance with the statute.<sup>19</sup> Inherent differences in how mobile services are typically sold and marketed compared to fixed services suggest the need to avoid applying reflexively any methodology designed for fixed services to the Mobility Fund. Specifically, the vast majority of mobile services are offered on nationwide terms and conditions by national or regional carriers serving both urban and rural areas. Thus, for mobile providers, the most straightforward means by which to ensure reasonable rates in rural America is to rely on nationwide rates. However else the Commission ultimately defines this obligation,<sup>20</sup> CTIA encourages the Commission, at a minimum, to find that carriers offering uniform nationwide rates meet the “reasonable comparability” requirement.<sup>21</sup>

### **III. OBLIGATIONS OF FUNDING RECIPIENTS SHOULD BE CRAFTED TO MAXIMIZE PARTICIPATION AND REFLECT THE UNIQUE NATURE OF MOBILE SERVICES**

CTIA supports the imposition of reasonable obligations on funding recipients in order to ensure accountability for the funds that are disbursed. Going forward, wireless carriers’ participation will be crucial for the success of the universal service system: mobile wireless carriers are obviously central to the mission of the Mobility Fund, and wireless carriers also are likely candidates to bid for CAF support, to the extent that price cap incumbents decline to make

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<sup>18</sup> 47 U.S.C. § 254(b)(3).

<sup>19</sup> FNPRM at ¶ 1151.

<sup>20</sup> CTIA takes no position at this time on the proposals to define the requirement in terms of a “reasonable range” of urban rates for comparable service, or to use two standard deviations to define this “reasonable range.” See FNPRM at ¶¶ 1149-51. CTIA may define its position on these issues in the future.

<sup>21</sup> FNPRM at ¶ 1027; see also *id.* at ¶¶ 1149-50.

statewide commitments. The Commission therefore should craft these obligations carefully – both the Mobility Fund-specific obligations and the general CAF obligations – so that they impose the necessary accountability without discouraging participation by mobile wireless carriers.

**A. Any General Broadband Reporting Requirements Should Reflect the Unique Nature of Mobile Broadband Networks**

In posing questions about the broadband measurement and performance obligations that should apply generally to funding recipients, the FNPRM rightly seeks comment on whether the same standards should apply to fixed and mobile offerings.<sup>22</sup> In this regard, CTIA supports the Commission’s intention to incorporate the record generated in response to the *Measuring Mobile Broadband Public Notice*.<sup>23</sup> In that proceeding, CTIA highlighted the unique challenges inherent in measuring mobile broadband speeds.<sup>24</sup> Fundamentally, mobile wireless networks – and the provisioning and management of service over them – are completely different than wireline networks.

Indeed, the Commission has “recognize[d] that a wireless network has several layers of complexity that are not found in wireline networks, each of which affect the user experience.”<sup>25</sup> The capacity of a wireless cell site is shared between all users in the cell. So a user’s actual speed will vary depending on, among other things, “temporal changes in capacity demand (or

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<sup>22</sup> FNPRM at ¶¶ 1014, 1021, 1023.

<sup>23</sup> *Comment Sought on Measurement of Mobile Broadband Network Performance and Coverage*, CG Docket Nos. 09-158 *et al.*, Public Notice, 25 FCC Rcd 7069 (2010) (“*Measuring Mobile Broadband Public Notice*”).

<sup>24</sup> *See* CTIA Comments, CG Docket Nos. 09-58 *et al.* (filed July 8, 2010).

<sup>25</sup> “The Broadband Availability Gap,” Omnibus Broadband Initiative Technical Paper 1, FCC, at 66, *available at* Appendix to *Connect America Fund, et al.*, WC Docket Nos. 10-90 *et al.*, Notice of Inquiry and Notice of Proposed Rulemaking, 25 FCC Rcd 6657 (2010).

loading).”<sup>26</sup> Also, the capacity of a cell is shared between all services running over the network. Wireless voice and data use share the finite capacity of the cell. Because wireless networks are RF-based, they are subject to blockage and fading unlike wireline networks. And wireless signals “undergo[] different levels of degradation depending on terrain, user mobility and location (indoors vs. outdoors vs. in-car).”<sup>27</sup> Finally, there is a wide range of end-user device types, which “vary in their peak bandwidth capabilities [and] have different types of antennas [and] form factors.”<sup>28</sup> As a result, CTIA does not believe that any metric for measuring mobile wireless broadband speeds would provide any better information than the current practice of reporting peak and average data rates to customers.

In addition, CTIA agrees with the NPRM’s proposal that the analysis of reasonable comparability should be different for fixed and mobile services.<sup>29</sup> A number of factors make it difficult to compare the pricing of fixed and mobile broadband services directly, including the network characteristics discussed above, as well as the unique benefits of mobility. In addition, as noted above, CTIA encourages the Commission, at a minimum, to find that carriers offering uniform nationwide rates meet the “reasonable comparability” requirement.<sup>30</sup>

By ensuring that the performance and reporting requirements imposed on wireless carriers are reasonable, the Commission can best maximize wireless carriers’ participation in

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<sup>26</sup> *Id.* (“Another factor affecting user experience is the fact that wireless spectrum is shared by all the users in the cell. As a result, a user can experience significant variations at the same position in the cell depending on temporal changes in capacity demand (or loading).”).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> FNPRM at ¶ 1023.

<sup>30</sup> *See supra* Section II.

both the Mobility Fund and the CAF more broadly – which ultimately benefits consumers and the fund.

**B. The Commission Should Narrowly Tailor Any Mobility-Specific Requirements to Promote Participation in the Mobility Fund**

While maximizing wireless carriers' participation is important throughout the new universal service mechanisms, this imperative is strongest in the Mobility Fund. As noted above, CTIA supports the imposition of reasonable measures for accountability but, if the obligations are excessive, wireless carriers may find that the costs do not outweigh the benefits and forego participation altogether. Most fundamentally, CTIA encourages the Commission to refrain from reflexively requiring Mobility Fund recipients to comply with all the reporting and performance requirements applicable to fixed ETCs. Particularly in the Mobility Fund, reporting and performance obligations should be tailored to the specific characteristics and benefits of wireless service.

Moreover, CTIA cautions the Commission against adopting outage reporting requirements for mobile broadband networks in the context of this proceeding. The Commission is considering changes to its outage reporting requirements in the context of a separate and more focused proceeding.<sup>31</sup> As a broad coalition of mobile and fixed broadband providers have observed, any outage reporting structure must take account of the complex technical issues involved in outage reporting and appropriately balance the significant costs of granular reporting against the benefits and goals to be achieved.<sup>32</sup>

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<sup>31</sup> *The Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers*, PS Docket No. 11-82, Notice of Proposed Rulemaking, 26 FCC Rcd 7166 (2011).

<sup>32</sup> See Joint letter from American Cable Association, AT&T, CenturyLink, Comcast, CompTel, CTIA, Frontier, ITTA, Level 3, NCTA, Sprint, Time Warner, T-Mobile USA, Inc., US ISPA, US

If properly tailored, accountability standards for the Mobility Fund will ensure accountability in the use of scarce public funds without discouraging broad provider participation.

#### **IV. THE COMPETITIVE BIDDING PROCESS FOR THE CONNECT AMERICA FUND PHASE II FOR PRICE CAP AREAS SHOULD BE DESIGNED TO FACILITATE PARTICIPATION BY MOBILE WIRELESS PROVIDERS**

The Connect America Fund's Phase II provides the mechanism by which universal service support will be directed towards consumers in price cap incumbent LEC territories.<sup>33</sup> In Phase II, price cap incumbent LECs have the opportunity to make an initial state-level commitment to provide broadband through their entire service area for five years.<sup>34</sup> This right is not afforded to any other broadband provider operating in the same service area, including mobile wireless carriers. If the state-level commitment is rejected, the Commission will conduct a competitive bidding process open to any interested carriers.<sup>35</sup> The FNPRM seeks comment on how best to structure that competitive bidding process.<sup>36</sup> CTIA believes the Commission should ensure that the Connect America Fund Phase II competitive bidding process provides a genuine opportunity for wireless broadband offerings to meaningfully participate and compete for universal service support.

CTIA urges the Commission to design and implement the Connect America Fund competitive bidding process in a manner that facilitates the participation of mobile broadband

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Telecom, Verizon, VON Coalition, Windstream, and XO Communications to James Barnett, FCC, PS Docket No. 11-82 (filed Nov. 14, 2011).

<sup>33</sup> Order at ¶¶ 127-93.

<sup>34</sup> Order at ¶¶ 171-2, 178.

<sup>35</sup> Order at ¶ 179.

<sup>36</sup> FNPRM at ¶¶ 1190-222.

providers. Each month, wireless carriers are expanding the reach of their fast new 4G networks that will provide functionalities and broadband performance comparable to fixed broadband networks, particularly in rural and remote America. Even today, Pew found that 25 percent of smartphones users, typically using 3G networks, prefer to go online using their smartphone rather than their personal computer.<sup>37</sup> The need to ensure this opportunity is competitively neutral is heightened by the inequities of barring all other providers from participating in the initial state-level commitment.

Auction Structure. The FNPRM sets forth a reasonable proposal for the basic contours of the competitive bidding process.<sup>38</sup> Specifically, CTIA agrees that census blocks should be used as the relevant supported areas for the same reasons described above with respect to Phase II of the Mobility Fund.<sup>39</sup> CTIA also supports the FNPRM’s proposal that bidding units should be set based on the number of residential and business locations in each eligible census block.<sup>40</sup>

Performance Requirements. The Commission proposes that different minimum performance characteristic requirements (*e.g.*, speed, latency, usage limits) be used for the state-level commitment and the competitive bidding process. CTIA agrees that the Commission should recognize that broadband is not a one-size-fits-all service, and “allow[] for more technologies to compete for funding” by modifying the state-level commitment performance requirements to better reflect the broader group of eligible entities in the bidding process.<sup>41</sup>

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<sup>37</sup> Pew Internet & American Life Project, “35% of American adults own a smartphone,” at 2 (Jul. 11, 2011).

<sup>38</sup> FNPRM at ¶¶ 1191-218.

<sup>39</sup> *See* [cross-ref]

<sup>40</sup> FNPRM at ¶ 1194.

<sup>41</sup> FNPRM at ¶ 1204.

Providing greater flexibility in the required performance characteristics may be central to the ability of the Commission to achieve the objective of “yield[ing] greater coverage at acceptable broadband performance standards.”<sup>42</sup> It is particularly important that these modified performance standards do not preclude or dissuade meaningful wireless provider participation. CTIA urges the FCC to accommodate different types of broadband performance in the bidding process. Moreover, CTIA believes that the Commission should explicitly include – and reward – mobility as one factor to consider in evaluating bids.<sup>43</sup>

## **V. THE FCC SHOULD LIMIT THE IMPACT OF RATE-OF-RETURN REGULATION ON THE INCREASINGLY COMPETITIVE MARKETPLACE**

In the Order, the Commission made a number of important and overdue reforms to legacy rate-of-return universal service programs. The Commission concluded correctly that “[t]he effect of current ... regulation is to insulate rate-of-return carriers from revenue loss due to competitive pressures,”<sup>44</sup> and initiated reforms that incorporate incentive regulation concepts into legacy rate-of-return support mechanisms.<sup>45</sup> The Commission, however, stopped short of taking the action most consistent with its findings and eliminating legacy rate-of-return support altogether. CTIA urges the Commission to complete the important work of reforming rate-of-return regulation as soon as practicable. Similarly, with respect to explicit universal service

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<sup>42</sup> FNPRM at ¶ 1204.

<sup>43</sup> In establishing the competitive bidding process, the Commission should also take into account how any such mechanism could be used in the next phase of Connect America Fund. The Order explained “we expect the Commission will use competitive bidding to award CAF support on a going-forward basis” after the initial five-year period. Order at ¶ 172. The Commission should set a firm schedule and structure for the next CAF phase as soon as possible, and should design the initial competitive building process so that it can serve as a strong competitively neutral foundation for the future distribution mechanism.

<sup>44</sup> Order at ¶ 901.

<sup>45</sup> Order at ¶¶ 210-84.

mechanisms, the Commission should focus on incorporating current rate-of-return carriers into the broader CAF mechanism, rather than formulating an elaborate alternative CAF system for these carriers.

**A. The Commission Has Correctly Identified Rate-of-Return Regulation for Additional Reform**

CTIA commends the Commission for moving to a more incentive-based approach for rate-of-return carriers, and notes that the practical effect of the Commission's intercarrier compensation reforms is to remove interstate switched access services from rate-of-return regulation altogether.<sup>46</sup> These are important steps to the ultimate elimination of legacy rate-of-return regulation. In the FNRPM, the Commission seeks comment on how to reform the remaining aspects of rate-of-return regulation, in particular the authorized rate of return for interstate common line service, which recover incumbent LECs' loop costs.<sup>47</sup> As described below, CTIA continues to be concerned about the impact of rate-of-return regulation on the competitive landscape and urges the Commission to move forward with short and long-term reforms.

The impact of rate-of-return regulation on the competitive marketplace is one that will only continue to grow. Mobile providers, which do not benefit from the protections of rate-of-return regulation, are increasingly competing with rate-of-return providers for both voice and broadband service. Retaining support mechanisms that insulate certain providers from competitive pressure is unfair, and potentially distorts the development of competition. Thus, CTIA urges the Commission to take the opportunity now to complete its work and establish a fixed timetable to transition legacy support for rate-of-return carriers to the newly established

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<sup>46</sup> Order at ¶¶ 902-03, 1044, n. 2157.

<sup>47</sup> FNPRM at ¶¶ 1044-60.

Connect America Fund. While the Order’s reforms are an improvement, retaining legacy rate-of-return funding is inconsistent with the forward-looking approach underlying the Order and competitive realities.

In concert with efforts to phase out rate-of-return altogether, CTIA also agrees with the Commission’s proposals to take additional interim steps to address remaining inefficiencies in the legacy rules. Specifically, CTIA supports the FCC’s efforts to bring the prescribed rate of return in line with market levels. There is clear agreement that the current 11.25 percent rate-of-return “is no longer reflective of the cost of capital,” and that public data would support cutting the rate-of-return significantly to approximately seven percent.<sup>48</sup> Lowering the rate of return for the first time in two decades will lessen the distortive effect of rate-of-return regulation and hasten the transition of rate-of-return carriers to CAF. In reducing the rate of return, CTIA agrees with the Commission’s proposal that the HCLS cap and ICLS support mechanism should be reduced by corresponding amounts.<sup>49</sup>

**B. The Commission Should Apply the Same CAF Rules That Apply in Price Cap Territory to Rate-of-Return Carriers**

The FNPRM explains correctly that “all universal high-cost support should ultimately be distributed through CAF for all recipients,” and seeks comments on the ultimate transition of rate-of-return carriers to CAF.<sup>50</sup> The Commission need not overly complicate the transition of rate-of-return carriers to the newly established CAF. Rate-of-return carriers should be folded into the existing CAF as soon as practicable, rather than expending a significant amount of effort (and time) adopting a different CAF mechanism for rate-of-return carriers. For price cap areas,

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<sup>48</sup> FNPRM at ¶¶ 1047, 1057.

<sup>49</sup> FNPRM at ¶ 1058.

<sup>50</sup> FNPRM at ¶ 1031.

the Commission has set a specific budget and will rely on competitive bidding and a new forward-looking cost model to estimate the amount of support necessary.<sup>51</sup> CTIA encourages the Commission to apply this approach for all areas.

If the Commission wishes to ease this transition for carriers currently subject to rate-of-return regulation, it could provide a time-limited opportunity for a state-level commitment, much as it has provided to price cap incumbent LECs in the Order. Thereafter, as in price cap incumbent LEC areas, CAF support should be available in open auction.

The Commission, therefore, should decline the Rural Association's "CAF" proposal that would retain an approach constructed around separations rules and embedded costs, rather than the Order's forward-looking, market-based approach.<sup>52</sup> Rather than adopting this complex approach, the Commission should strive for a long-term support mechanism that promotes innovation and efficiency, facilitates competition across platforms, and accommodates advances in technology and consumer needs.

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<sup>51</sup> Order at ¶ 156.

<sup>52</sup> FNPRM at ¶¶ 1031-43.

**VI. CONCLUSION**

CTIA urges the Commission to finalize its universal service reform efforts consistent with these comments.

Respectfully submitted,

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