

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 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 LECs)	WC Docket No. 07-135
High-Cost Universal Service Support)	WC Docket No. 05-337
Developing a Unified IC Regime)	CC Docket No. 01-92
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
Lifeline and Linkup)	WC Docket No. 03-109
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

**FEDERAL COMMUNICATIONS COMMISSION
NOVEMBER 18, 2011 ORDER**

**Reply Comments of the Montana Public Service Commission Regarding the
December 29, 2011 MTPCS, LLC Petition for Reconsideration**

February 21, 2012

The Montana Public Service Commission (PSC) after considering the Petitions for Reconsideration submitted to the Federal Communications Commission (FCC) regarding the FCC Report and Order released November 18, 2011 (Order), as well as Oppositions to the Petitions for Reconsideration, respectfully files these Reply Comments in support of the Petition for Reconsideration filed on December 29, 2011 by MTPCS, LLC dba Cellular One (MTPCS).

MTPCS was designated by the PSC as an Eligible Telecommunications Carrier (ETC) in April 2008. In addition to the FCC's requirements, the PSC required MTPCS to commit to build out its network to cover at least 98% of the population in its designated study areas within 5 years of designation.¹ This 98% coverage requirement caused MTPCS to aggressively build out its networks in a relatively short amount of time. Since being designated, MTPCS has increased its footprint by one-third, growing its network from 162 sites to 223 sites. Many communities in Montana, including some tribal lands, would not have wireless service were it not for these efforts. MTPCS has continued these efforts in 2010 and 2011, extending service to thousands of people in remote, rural, high cost areas within its ETC footprint.

Under the FCC's proposed Order, high cost support would be frozen for MTPCS at 2011 levels, which are actually based on 2010 line counts. This would cause carriers that were aggressively expanding service in higher cost areas in 2010 and 2011 to receive a lower baseline going forward in 2012 than carriers with static or declining line counts during 2010 and 2011. MTPCS took its obligations seriously and acted in good faith to meet its legal obligations by investing heavily both in network expansion and ongoing operating expenditures in order to achieve its 98% coverage requirement implemented upon them by the PSC. MTPCS was willing and able to make those investments based on a reasonable expectation that if it committed the capital, the resulting increased line counts and increased service in higher cost areas would result in increased high cost support funds. Freezing and eventually reducing high cost support at 2011 levels (which are based on 2010 line counts) essentially leaves the capital investments that MTPCS made in 2010 and 2011 stranded with no viable way for MTPCS to recover them.

If support were calculated using the lines in service and support amounts as of September 30, 2011, as MTPCS has proposed in its alternative baseline calculation, MTPCS estimates it would have received approximately \$511,000 per month in total high cost support in Montana for the third quarter of 2012. In comparison, under the FCC's proposed Order, MTPCS

¹ MTPCS, LLC, dba Chinook Wireless, Application for Designation as an Eligible Telecommunications Carrier, Final Order, Order No. 6812d; MPSC Docket No. D2007.2.18

estimates it would only be entitled to \$388,000 per month in frozen high cost support. After the 20% phase down, MTPCS' estimated support would be \$310,000, a 39.25% reduction, and nearly double the 20% reduction intended by the FCC in its proposed Order.

In its Reply Comments to the FCC², dated August 31, 2011, the Montana PSC expressed concerns regarding the effects of the proposed Order on wireless CETCs, such as MTPCS, in the State of Montana:

The MPSC has designated three wireless carriers as CETCs in Montana. All three wireless CETCs, in order to be designated as CETCs, were ordered to build out their wireless networks such that 98% of the population in their study areas would have access to their wireless service. All three CETCs have either complied with the coverage provision or are in the process of doing so. The result has been wireless coverage for large, sparsely populated geographic areas of Montana that the major wireless carriers had no interest in serving for obvious economic reasons. Sagebrush Wireless serves both the Fort Peck Indian Reservation and the Crow Indian Reservation. For the vast majority of the land area on those reservations, Sagebrush is the only provider of wireless service. Sagebrush has stated that without CETC support it will not be able to finish the required expansion of its network to the 98% coverage target, and in fact, it would have to abandon part of its existing network. Both CellularOne and Mid-Rivers Communications have made the same predictions as Sagebrush regarding the impact of the loss of CETC funds. In the NPRM the FCC stated, "Given the strong consumer demand for mobile services, ubiquitous mobile coverage must be a national priority." The MPSC strongly agrees with that statement and believes that loss of CETC funding for the wireless CETCs in Montana would dramatically reduce wireless coverage in extremely rural areas of Montana.

The PSC is concerned that if wireless CETCs in Montana lose a significant portion of their high cost support, it is possible that certain rural areas and tribal lands in Montana may lose access to cellular service. The PSC believes that MTPCS has presented a reasonable alternative to what the FCC has proposed, and MTPCS' proposal may be a better option for wireless CETCs that serve very high-cost, rural areas in Montana such as MTPCS, Mid-Rivers, and Sagebrush.

² Reply Comments Re: Further Inquiry Into Certain Issues in the Universal Service-Intercarrier Compensation Transformation Proceeding 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

These companies were ordered by the PSC to achieve 98% coverage within 5 years of designation as an ETC, which required aggressive build-out and large capital expenditures to provide service to high-cost areas. These CETCs attempted to meet their service obligations under a reasonable expectation that adequate high-cost support would be available to them, or at least that high-cost support would not be drastically reduced in one “flash-cut” as the FCC’s Order proposes.

Unlike some other states, Montana has been very conservative in who it has designated as an ETC. The PSC does not believe that all ETC’s throughout the country should be painted with the same “broad brush” so to speak. The PSC supports MTPCS’ Petition for Reconsideration, and urges the FCC to consider the MTPCS proposal for an alternative baseline calculation methodology for wireless CETCs such as MTPCS in states which have imposed coverage requirements on CETCs.. Wireless CETCs in Montana have diligently followed requirements set forth upon them by the PSC to achieve 98% coverage within a 5 year period, including investments and expansion made in 2010 and 2011. To reduce high cost support so drastically from what wireless CETCs in Montana had expected to receive in 2012, as the FCC Order suggests, puts sunk investments at risk, as well cellular service for many Montanans in rural communities. Thank you in advance for your consideration in this matter.