

**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 a Unified Intercarrier Compensation Regime |) | CC Docket No. 01-92 |

**REPLY COMMENTS OF THE
RURAL INDEPENDENT COMPETITIVE ALLIANCE**

The Rural Independent Competitive Alliance (“RICA”), by counsel, files these Reply Comments with respect to the Petitions for Reconsideration of the *USF/ICC Transformation Order* and the Comments of other parties filed February 9, 2012.¹ RICA is a national association of rural competitive local exchange carriers (“CLECs”) that are affiliated with incumbent rural telephone companies (“ILECs”). RICA has participated extensively in these proceedings during the more than ten years these questions have been docketed.

These Reply Comments are specifically directed to an issue raised in the Petition for Reconsideration of the United States Telecom Association (“USTA”). In that Petition USTA asks the Commission to reconsider its decision at paragraphs 150 and 206 of the *Order* requiring

¹ *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*” or “*Order*”). Public Notice, Report No. 2945, Jan. 12, 2012; Public Notice, DA 12-130, Feb. 3, 2012.

the use of frozen high-cost support to deploy broadband service. Specifically Price Cap carriers are required, over a short transition, to spend all of their frozen high cost support “to build and operate broadband-capable networks used to offer the provider’s own retail broadband service in areas substantially unserved by an unsubsidized competitor.”² USTA argues that the *Order* is inconsistent with the Act and contains no finding that frozen high cost support would be sufficient to both support the expansion of broadband to unserved areas and maintain the existing network of a carrier.³

AT&T’s Comments support the USTA Petition.⁴ AT&T further argues that the Commission should eliminate the broadband requirement for Price Cap carriers in order to be consistent with the Commission’s decision not to extend such requirements to CETCs.⁵

RICA takes no position on the underlying issue of whether Price Cap carriers should be required to use frozen support to deploy broadband in portions of their study areas without such service. However, the Petition raises an apparent anomaly in the *Order* that should be reconsidered. The requirement to deploy broadband services as written is limited to “areas substantially unserved *by an unsubsidized competitor*.”⁶ Unsubsidized competitor is defined as a “facilities-based provider of residential terrestrial fixed voice and broadband service that does not receive high-cost support.”⁷ Several RICA member rural CLECs competing with Price Cap carriers and providing voice and broadband service receive frozen high cost support for which they originally became eligible under the prior “identical support rule.” Support was based on

² *Order* at para. 150. Rate of return carriers are only required to use frozen high cost support to provide broadband service “upon reasonable request.” *Order* at paras. 206, 208.

³ USTA Petition for Reconsideration, Dec. 29, 2011, pp. 9-11.

⁴ AT&T Comments, Feb. 9, 2012, 26-28.

⁵ *Id.* at 28 and n. 92.

⁶ *Order* at para. 150.

⁷ 47 C.F.R. 54.5. High-cost support is defined in that section to include support provided to CETCs.

either interstate access support and/or high cost model support. It is therefore apparent that these supported rural CLECs do *not* meet the definition of an “*unsubsidized competitor*” under a literal reading of the paragraph 150 requirement and that the portions of a Price Cap carrier study area where a supported CETC provides voice and broadband service are *not* “unserved by an unsubsidized competitor.” Thus, ironically, areas with CETC-provided broadband service are included in the area in which Price Cap carriers are required to use frozen support to deploy broadband.

It was probably not the Commission’s intent to either require or authorize Price Cap carriers to use scarce USF dollars to deploy new broadband services where a rural CLEC CETC already provides broadband. Such a requirement or authorization would not be rational given the relatively small amounts of Price Cap carriers’ frozen support compared to the very large areas to which they do not provide broadband, as well as the central objective of the proceeding to extend broadband to unserved areas. To the extent, therefore, that any such requirements are retained upon reconsideration, the Commission should eliminate the phrase “by an unsubsidized competitor” thereby limiting the paragraph 150 requirement to “unserved areas.”

Respectfully submitted

Rural Independent Competitive Alliance

By/ David Cosson

Its Attorney

2154 Wisconsin Ave., N.W.
Washington, D.C. 20007
202 333 5275

February 21, 2012