Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	
	)	**WC Docket No. 10-90**
Universal Service Reform – Mobility Fund	)	
	)	**WT Docket No. 10-208**
Allband Communications Cooperative	)	
Request for Waiver	)	
	)	
Big Bend Telephone Company	)	
Request for Waiver	)	

REPLY COMMENTS OF THE

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association (NTCA) hereby files reply comments in the above-captioned proceedings.[1] In comments on the above-captioned petitions, NTCA urged the Commission to grant the petitions in order to enable continued fulfillment of statutory mandates that are intended to ensure the provision of universal service throughout the nation. Those comments were consistent with positions NTCA advocates throughout the course of the Universal Service Fund (USF) and intercarrier compensation (ICC) rulemaking proceedings – specifically, that regulatory outcomes must be consistent with and promote the statutory mandate to ensure that users in rural and insular areas of the nation have access to

[1] NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents nearly 600 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite, and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended. NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

communications services that are reasonably comparable in price and quality to those available in urban areas. Outcomes that fail to meet those objectives will not only fail legal scrutiny, but will moreover fail the economic and societal gains envisioned respectively by Congress, the public, and the Commission.

Throughout, NTCA has not minimized the technical, financial, and sociological challenges of deploying, maintaining, and encouraging use of broadband networks in rural areas. Moreover, NTCA has worked assiduously with its industry colleagues to formulate consensus positions that could meet collective needs. Finally, NTCA recognizes the coordinated actions of government, end-users, and capital markets in providing the bases upon which advanced communications networks can be deployed further throughout the nation, including, but not limited to, the historical complementary efforts of the Commission and the Rural Utilities Service (RUS). [2]

In December 2008, the RUS described its "main objective" as "ensur[ing] that rural residents and businesses continue to receive the same quality of services as their urban and suburban counterparts, at affordable rates,"[3] a policy that is consistent with the Communications Act of 1934, as amended (the Act).[4] At that time, as well, RUS signaled its concerns with proposals that threatened the specific, sufficient, and predictable nature of USF support, warning

[2] Indeed, the role of RUS in rural broadband deployment was solidified in the American Recovery and Reinvestment Act of 2009 (ARRA), which directed the infusion of broadband investment dollars through RUS-administered mechanisms.

[3] *High-Cost Universal Service Support, Federal-State Board on Universal Service, Developing a Unified Intercarrier Compensation Regime: U.S. Department of Agriculture Rural Utilities Service Reply Comments*, WC Docket No. 05-337, CC Docket Nos. 96-45, 01-92, at 2 (Dec. 22, 2008) (RUS Reply Comments).

[4] *See* 47 U.S.C. § 254(b).

the Commission that "certain proposed actions would cause delay or preclude broadband deployment to rural communities at a time when that investment is needed most."[5] Those concerns attend current rulemaking proceedings.

As carriers of last resort, NTCA members are experientially aware of the challenges that permeate the task of providing service to the full breadth of rural service areas. RUS's and the Commission's respective activities have supported each other, allowing carriers of last resort to deploy and maintain advanced networks in high-cost rural and insular areas and to then in turn ensure, consistent with the statutory mandate for universal service, that such networks enable consumer access to reasonably comparable services at reasonably comparable rates.

The Commission, however, should avoid any interpretation of that "close relationship" that would operate to undermine fulfillment of the Act's universal service mandates. USF or other high-cost support should provide assurance of cost recovery which, by definition, cannot occur before the cost-causing investment event completes. The availability of RUS loans provide carriers with opportunity to obtain capital that *enables* investment, and the high-cost support based upon those costs (and in combination with end-user and other revenues) then outfits carriers with the resources to provide affordable services across those networks and recover the costs of doing so.

In its comments on the instant waiver petitions, the National Cable & Telecommunications Association (Cable) quotes a paper that claims RUS programs are part of "a vicious cycle" that results in inefficiencies.[6] This view, however, is factually inconsistent with

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[5] RUS Reply Comments at 2.

[6] *Connect America Fund, Universal Service Reform – Mobility Fund, Allband Communications Cooperative Request for Waiver, Big Bend Telephone Company Request for Waiver: Comments*

the quantifiable success of these programs and the federal USF as well. Small telecommunications companies that operate as carriers of last resort *throughout* rural areas – rather than just focusing operations on cities and towns – have leveraged this public-private partnership to deploy basic levels of broadband to over 92 percent of rural consumers,[7] all while seeing stable USF high-cost disbursement levels.[8] Moreover, the RUS programs have been a success story not only in facilitating such broadband-capable network deployment, but also in providing a positive return to the American taxpayer on the loans as they are repaid with interest by small rural carriers. It is essential that the public-private partnership between these small carriers and the federal government – and also the successful partnership to date between the Commission and the RUS – continue if the statutory objectives of universal service, the statutory mission of RUS, and the ultimate needs of rural consumers will all be served.

NTCA has set forth previously its positions regarding the statutory mandates of the Act, and does not revisit those arguments here; moreover, the Federal-State Joint Board on Universal Service has previously commended the rural industry's deployment achievements,[9] a record that

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of the National Cable & Telecommunications Association, WC Docket No. 10-90, WT Docket No. 10-208, at 5, 6 (Mar. 14, 2012) (internal citation omitted) (Cable).

[7] *See* NECA *Trends 2010* – A Report on Rural Telecom Technology, at 5 (www.neca.ord/cms400min400min/NECA_Templates/PublicInterior.aspx?id=100) (last viewed Mar. 29, 2012, 16:38). *See, also,* Universal Service Administrative Company, 2009 Annual Report, at 2 (noting an "improper payment rate" of only 2.7 percent in the high-cost program) (http://www.usac.org/_res/documents/about/pdf/usac-annual-report-2009.pdf) (last viewed Mar. 29, 2012, 16:14).

[8] *See* http://www.usac.org/about/universal-service/fund-facts-charts/hc-disbursements-bar-graph.pdf (last viewed Mar. 29, 2012, 16:56).

[9] *High-Cost Universal Service Support, Federal-State Joint Board on Universal Service: Recommended Decision,* WC Docket No. 05-337, CC Docket No. 96-45, FCC 07J-4 (2007).

does not square with alleged inefficiencies.[10] Ultimately, where Cable perceives a "vicious cycle," the data demonstrate a "virtuous cycle" of complementary agency actions and successful public-private partnership for the reasons described above. Moreover, the exacting accounting requirements and rigorous audits to which carriers are subject ensure that inefficiencies are squeezed from the system before cost recovery for such expenses could be obtained.

Nevertheless, despite the varying views of how the agency programs are administered, NTCA concurs with Cable that a "close relationship" exists between federal programs that enable network construction in rural areas and those that then enable the offering of affordable, high-quality services on those networks. NTCA submits that no successful implementation of a high-cost support program can occur without careful consideration of and coordination with RUS policies and evaluation of the revenue and cash flow impacts of USF reform on small carriers, their investors and lenders, and of course their consumers. The continuing success of these programs demands specific and thoughtful coordination in order to ensure the provision of high-cost support that is itself specific, sufficient, and predictable, enabling the virtuous cycle of broadband investment in rural areas. The Commission must ensure that its actions do not jeopardize the ability of carriers to meet their obligations to RUS programs and the scarce few other lenders who have shown a commitment to putting capital at risk in rural broadband. Indeed, a commitment to future coordination should result in continued fulfillment of statutory universal service objectives. No lesser result should be considered.

At the heart of the instant discussion are the parties who have filed waivers in order to ensure the respective viability. As noted in prior comments, both companies have made a concerted effort to offer modern facilities to their subscribers. The population density of their

[10] Cable at 5 (internal citation omitted).

respective service areas create inherent high costs that move the companies outside the comparatively confined limitations that would be imposed by new rules, and which would have an adverse impact on the critical role these carriers play supporting economic, educational, and public safety needs. The Commission's coordination with other agencies can be utilized to further the carriers' respective abilities to meet Congressionally-mandated goals.

WHEREFORE the reasons stated above and herein, NTCA urges the Commission to grant the relief requested in the petitions and assure universal service consistent with Congressional mandates and national goals.

Respectfully submitted,

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