

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
A National Broadband Plan For Our Future)	GN Docket No. 09-51
_____)	

REPLY COMMENTS OF CLEARWIRE CORPORATION

Clearwire Corporation (“Clearwire”) respectfully submits these reply comments in the *Further Notice of Proposed Rulemaking* (“FNPRM”) in the above-captioned proceedings.¹ Clearwire supports the Commission’s wish to promote the sustainability of universal service funding. However, as Clearwire and numerous others stated in their respective comments, the Commission should delay its decision to include broadband Internet service in the USF contribution base.² In its opening comments, Clearwire urged the Commission to refrain from extending contribution obligations to broadband Internet service providers at this time for three reasons. First, Clearwire was concerned that broadband Internet services are at a critical juncture where a new USF contribution burden might suppress broadband deployment and adoption.³ Clearwire also cited to pending judicial challenges that might undermine the FCC’s authority to assess contributions on broadband providers as well as the ability to provide broadband support. Many in the industry also advised the Commission to hold off on including broadband services

¹ *Universal Service Contribution Methodology, A National Broadband Plan for Our Future*, WC Docket No. 06-122, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, FCC 12-46 (rel. April 30, 2012) (“FNPRM”).

² See Comments of Clearwire Corporation, WC Docket No. 06-122, GN Docket No. 09-51 (Jul. 9, 2012).

³ See, Comments of Clearwire Corporation at 7-8.

in the USF contribution base until more is known about the judicial challenges and the effect on the FCC's USF/ICC Reform Order.⁴ In addition, Clearwire urged the Commission to avoid yet another mismatch between USF contribution and support. As discussed below, because of the proposed perpetuation of historic Eligible Telecommunication Carrier or "ETC" eligibility requirements, green field broadband service providers such as Clearwire that are data-centric and not traditional common carriers are not yet even eligible to apply for ETC status. While Clearwire has asked the FCC to rework its eligibility rules in the future, for now only a handful of traditional telecommunications providers can even qualify for broadband support. Therefore, if the Commission is to achieve its goal of fairness,⁵ it should not include in the contribution base those providers who would otherwise be put at a competitive disadvantage by being included as contributors when they are not eligible to qualify for support.

I. THE COMMISSION SHOULD NOT EXTEND CONTRIBUTION OBLIGATIONS TO THOSE INELIGIBLE TO RECEIVE USF FUNDS

Many commenters urge the inclusion of broadband Internet service in the contribution base because the Commission has recently decided to provide USF support for the deployment of broadband.⁶ While USF funding was recently extended to broadband Internet service⁷, the ETC eligibility requirements in essence limit support to traditional telecommunications carriers that offer stand-alone voice services, are subject to state regulation and are denominated as common

⁴ See, e.g., Comments of Verizon, WC Docket No. 06-122, GN Docket No. 09-51 (Jul. 9, 2012); See also, Comments of Sprint-Nextel Corporation, WC Docket No. 06-122, GN Docket No. 09-51 (Jul. 9, 2012).

⁵ FNPRM ¶ 24; See also, Comments of CTIA – The Wireless Association, WC Docket No. 06-122, GN Docket No. 09-51, at 5-6 (Jul. 9, 2012).

⁶ See, Comments of Google, Inc., WC Docket No. 06-122, GN Docket No. 09-51 (Jul. 9, 2012); See, also, Comments of Frontier Communications, WC Docket No. 06-122, GN Docket No. 09-51 (Jul. 9, 2012).

⁷ *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. 06-45, WC Docket No. 03-109, WT Docket No. 10-208 (rel. Nov. 18, 2011) ("USF/ICC Reform Order/NPRM").

carriers. Restricting support to the existing pool of voice-centric ETCs does not accurately reflect the rapid evolution of the broadband technology marketplace and does not extend eligibility to the new class of data-centric carriers like Clearwire that would be most likely to quickly and effectively deploy broadband services. While Clearwire has asked the FCC to modify its ETC rules in the future,⁸ until such changes are made, the Commission should not extend contribution obligations to carriers that are not even eligible to apply for ETC status. Otherwise, including all broadband services in the contribution base will disadvantage new, data-centric broadband Internet service providers when compared to voice-centric incumbents that have traditionally benefitted from USF support.⁹ If the Commission does indeed include all broadband Internet services in the contribution base, Clearwire agrees with the Comments of the Wireless Internet Service Providers Association (“WISPA”) that an exception should be made for those companies who are currently ineligible to receive funding in any areas where other broadband providers are eligible for support.¹⁰ By adopting this exemption, the Commission could stabilize the contribution base without unreasonably distorting the competitive marketplace.¹¹

II. CONCLUSION

⁸ Comments of Clearwire Corporation, 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. 06-45, WC Docket No. 03-109, WT Docket No. 10-208 (Jan. 18, 2012).

⁹ See, Comments of DISH Network, et al, WC Docket No. 10-90, GN Docket No. 09-51 (arguing that it would not be fair to mandate that satellite broadband providers contribute to the USF if they are excluded from receiving support while their competitors are subsidized by high-cost funding).

¹⁰ Comments of the Wireless Internet Service Providers Association, WC Docket No. 06-122, GN Docket No. 09-51 (Jul. 9, 2012) (arguing that the Commission should exempt revenues resulting from broadband services to customers located in areas in which other broadband providers are eligible for CAF support).

¹¹ See Comments of CTIA – The Wireless Association.

In light of the foregoing and the showings in its initial Comments in this proceeding, Clearwire urges the Commission to refrain from adding broadband Internet service to the USF contribution base at this time.

Respectfully Submitted,

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August 6, 2012