Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
A National Broadband Plan for Our Future	)	WC Docket No. 10-90
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208
	)	

COMMENTS OF PEÑASCO VALLEY TELEPHONE COOPERATIVE INC.
ON PETITION FOR WAIVER OF DELL TELEPHONE COOPERATIVE

Peñasco Valley Telephone Cooperative, Inc. ("PVT") submits these comments in accordance with the Commission's recent Public Notice[1] and in support of the Petition for Waiver of Dell Telephone Cooperative ("Dell"), filed June 6, 2012. In these Comments, PVT notes several similarities between itself and Dell, both in the challenges of serving a sparsely populated service area in harsh (both geographic and climatic) outside plant conditions, and in the financial harm threatened by the Commission's new high cost rules.

PVT respectfully requests the Wireline Competition Bureau to rule promptly in granting Dell's requested waiver petition. The current model has many flaws which deprive incumbent carriers (like Dell and PVT) of their ability to properly plan for broadband investment. The result is to chill rural broadband investment -- certainly a perverse outcome when measured against the Commission's stated broadband policy objectives.

[1] Wireline Competition Bureau Seeks Comment on Dell Telephone Cooperative Petition for Waiver of Certain High-Cost Universal Service Rules, Public Notice, WC Docket No. 10-90, WT Docket No. 10-208, DA 12-1113, released July 11, 2012.

The Waiver Should Be Granted

As grounds for its requested waiver, Dell cites a number of factors related to its high cost of service in Texas and New Mexico areas, and the punitive effect of the new high cost rules. As a threshold matter, however, the Bureau should be very concerned with Dell's expectation that it will cease to operate by 2014, without the requested rule waiver. See Dell Pet., pp. 18, 22. Dell explains that it projects a 36% revenue reduction in USF between 2013 and 2016 (id.) and that it will be in covenant default with its Rural Utilities Service ("RUS") loans "as early as next year". Id. at p. 17. Dell further explains that it is unable to finalize its fiber investment plans, precisely because of the recent USF "reforms" and that it expects to be insolvent (without a waiver) by 2016. Id. at p. 9.

PVT submits that this is no trifling matter (the settled expectations of Dell's customer/owners aside). There are scant alternatives for Dell's customers if it is forced into liquidation. In this respect, Dell notes that it is the "…sole provider of voice and broadband services that cover the entire study area." It further explains that the Big Three wireless companies (AT&T, Verizon and Sprint) provide "limited coverage," primarily focusing on the Interstate Highways in Dell's service area. Id. at 8. This is precisely the circumstance (i.e., consumers are at risk of losing voice services with no alternative terrestrial provider available) which the Bureau has recently identified as supporting a waiver of these rules. See, Allband Communications Cooperative Petition for Waiver of Certain High-Cost Universal Service Rules, Order, WC Docket No. 10-90, DA 12-1194, adopted July 25, 2012, at para. 10 n 22 ("Allband").

Dell's Petition shows that, in addition to satisfying the loss of service element identified in Allband, other good cause exists to support the waiver. In this respect, Dell has demonstrated that its service area is sparsely populated, consisting of approximately 800 customers, yet covering 10,498 square miles, some of which includes the Texas-Mexico border. Dell Pet., p 3. Dell's customer density is less than one (0.08) per square mile. Id. The terrain itself is rugged and mountainous, a fact that translates into higher operating and capital costs, particularly in burying plant in solid rock terrain. Id. Dell's service area is nearly the size of Massachusetts. Id. at p 5.

PVT understands the realities of Dell's service area and attendant costs, as it also provides local exchange, exchange areas and universal services in New Mexico. For instance, while PVT's service area covers 4,651 square miles in New Mexico, it serves only 2,350 customers, which translates to only .5 customers per square mile and 0.65 loops per square mile.[2] PVT's service area is approximately the size of Connecticut.

Like Dell, PVT's operating environment is harsh and expensive to serve. For instance, both companies must frequently use rock saws, a 100,000 pound heavy equipment machine used to cut through the rocky terrain, instead of bulldozers, to bury plant. See, e.g., Dell Pet. at p. 11. Often, a rock saw only cuts through 300 yards per day, as compared to the multiple miles of cable plowing per day that is possible in non-rocky soil, and undergoes regular damage requiring costly replacement parts. Both companies face large maintenance expenses associated with their service areas, and frequently require the use of unpaved roads to access network plant. Indeed, both companies are the only providers of terrestrial voice service throughout their service areas.

As with Dell, the new high cost rules are a major issue which threatens PVT's continued existence. In this respect, and like Dell, PVT has estimated the effect of the new high cost caps and related changes upon the company's financial operations. PVT projects that the average of

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[2] It should be noted that the current regression analysis erroneously assumes PVT's study area to encompass only 2,331 square miles – a 50% size error. Even using this erroneous data, PVT's service area would only serve 1.26 loops per square mile

such changes will be $2.19 million per year from 2012 to 2018. Indeed, the projected reduction of $3.3 million in 2019, alone, equals <u>356%</u> of PVT's 2011 net income.

PVT projects that such reductions will cripple PVT from the outset and, as with Dell, will ultimately put the company out of business. Similarly, and as is the case with Dell, PVT may be compelled to put future fiber investment on hold until it has some degree of visibility about meeting debt service objections. This is hardly consistent with the Commission's announced goal of spurring rural broadband investments, but necessarily the result of its current rules.

PVT notes in this respect the Bureau's recent <u>Allband</u> decision, previously noted, granting Allband Communications Cooperative a waiver similar to that requested by Dell. In particular, PVT notes that in granting Allband's waiver the Bureau factored in Allband's "undepreciated plant" as a relatively new company. <u>Id</u>., para 11. Although much of PVT's new fiber plant, like Allband's, has been placed within the last few years, PVT urges the Bureau to be flexible in its use of the term "undepreciated". As the Bureau is no doubt aware, fiber projects are made and paid for over very long investment horizons, such as 20 years. PVT submits that it would be extremely inequitable to strand significant fiber investment, where such investment was consistent with the very public policy reasons that gave birth to these dockets to begin with.

<u>**Conclusion**</u>

In light of the forgoing, PVT respectfully submits that the Bureau should expeditiously grant Dell's Petition for Waiver. As illustrated above, the revenue reductions caused by the Commission's recent reforms will likely have a calamitous effect on Dell, culminating in a complete cessation of its operations by 2014, leaving its customers without consistent and reliable voice and broadband services in its service area. Other carriers, PVT among them, face a similar situation and a similarly dire outcome.

If the Commission is to actually advance its stated goal of spurring rural broadband investment, waivers in circumstances such as Dell's are necessary. To this end, PVT urges the Commission to maintain flexibility in considering the factors involved such waiver requests, such as the assessment of "undepreciated plant."

Respectfully submitted,

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