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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	

COMMENTS OF THE SMALL COMPANY COALITION

Pursuant to Section 1.429 of the Commission's Rules, the Small Company Coalition ("SCC") hereby files the following comments on the Petition for Reconsideration of the Western Telecommunications Alliance ("WTA"); the Eastern Rural Telecom Association ("ERTA") and the National Exchange Carrier Association, Inc. ("NECA") (the "Petitioners") of the Commission's Sixth Order on Reconsideration and Memorandum Opinion and Order in the above-captioned proceeding.[1] Specifically, the SCC writes to support the Petitioners' assertion that the model in its current form is not predictable and any use of regression benchmarks should be solely as triggers for a more in-depth analysis of a carrier's costs.

I. Statement of Interest

The SCC is an alliance of rural telecommunications and broadband providers, including the following incumbent local exchange carriers (ILECs): Citizens Telephone Company of Kecksburg, Gorham Telephone Company, Laurel Highland Telephone Company, Mescalero Apache Telecom, Inc., Palmerton Telephone Company, Peñasco Valley Telecommunications,

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[1] *In re Connect America Fund*, *High-Cost Universal Service Support*, WC Docket No. 10-90, WC Docket No. 05-337, Sixth Order on Reconsideration and Memorandum Opinion and Order, FCC 13-16 (rel. Feb. 27, 2013) (Sixth Order).

Sacred Wind Communications, Valley Telephone Cooperative, Wheat State Telephone Company, and Yukon-Waltz Telephone Company. The SCC was formed to educate small rural ILECs and enable them to speak with one voice on critical regulatory and legislative issues. The SCC's primary mission is to facilitate small companies' ability to provide advanced telecommunications service to their communities, particularly in rural areas.

SCC member companies provide rural telecommunications and broadband internet service to some of the country's least-populated, hardest-to-serve areas. They have extensive experience in the telephone industry, and are very involved in the rural communities they serve. Many of the SCC's members have been adversely affected by the adoption of the quantile regression analysis ("QRA") mechanism, which is the subject of the Petition for Reconsideration. Several of the SCC's member companies have participated at various times throughout the proceeding, both individually, and with other groups.

As discussed more fully below, the SCC supports the Petitioners' argument that the QRA benchmarks should be used only as triggers for more in-depth review as a way to address the unpredictability inherent in the model and associated benchmarks.

II. <u>The QRA Benchmarks Should, At Most, Be Used Only as Triggers</u>

The existing model's benchmarks should be used as triggers for more in-depth review of a carrier's costs, not as a complete substitute for prudence review, if this kind of model is to be used at all. As the Petitioners correctly point out, a number of applications for review and comments have made this argument, including the SCC.[2] In fact, on September 18, 2012, the

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[2] *See Small Company Coalition/Alexicon Telecommunications Consulting Ex Parte*, WC Docket No. 10-90, et al., (filed September 20, 2012)(SCC/Alexicon Ex Parte). *See also, Application for Review of the Blooston Rural Broadband Carriers*, WC Docket Nos. 10-90 and 05-337, at 10

SCC and Alexicon presented the Wireline Competition Bureau with an alternative to the QRA model which made just such a point.[3] As the SCC and Alexicon noted in that *ex parte*, it is "highly unlikely that a sufficient statistical model can be developed to predict the capital and operating costs for such a varied universe of companies." Plainly put, no model should be used as a substitute for real costs; rather, a model is best used to identify potential outliers, and benchmark cost thresholds only should be used as a reasonableness test to trigger a further review to determine whether costs are inappropriately high or otherwise imprudent.

Indeed, as early as February 2011, the record has indicated that the use of benchmarks as cut-offs rather than triggers for further analysis is an inappropriate use of the chosen statistical method. The report of Dr. Janice Hauge, an empirical economist experienced in utility benchmarking and universal service fund economic issues currently teaching at the University of North Texas, stated clearly that, "[t]he FCC is essentially implementing the model backwards, by using it to designate certain operators as outliers to be subject to cost cut-offs rather than by evaluating the data in order to determine why service providers who are truly outliers have high costs."[4]

For example, Cordova Telephone Cooperative, Inc. in Alaska faces excessively high costs due to extreme snow, ice, and high wind on the hill tops which requires recurring

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(filed May 22, 2012); *Application for Review of Blue Valley TeleCommunications, Inc*., WC Docket Nos. 10-90 and 05-337, at 10 (filed June 22, 2012); *Supplement to the Application for Review of Silver Star Telephone Company, Inc.*, WC Docket Nos. 10-90 and 05-337, at 3 (filed June 22, 2012).

[3] *SCC/Alexicon Ex Parte* at Appendix A, pg 8.

[4] Report of Dr. Janice Hauge, *Reply Comments of the Blooston Rural Broadband Carriers*, WT Docket No. 10-90, et al., filed February 17, 2011. Significantly, Dr. Hauge also taught at the University of Florida Public Utility Resource Center – a recognized academic resource on the subject of utility benchmarking.

maintenance to the microwave system equipment there. If a site goes down, many sites can only be accessed via helicopter, which costs several thousand dollars a day to rent. Compounding the matter, the company must reserve the helicopter in advance and pay for its daily rental, yet it is common that the weather will not permit a helicopter flight on any given day. As a result, weather delays typically require multiple-day rentals at the company's expense in order to air lift a technician, who then must spend several hours digging out the remote from what could be twenty feet of snow accumulation. All this occurs in an effort to fix a routine matter, and yet the QRA has established a <u>negative</u> coefficient for Alaska, essentially declaring Alaska to be <u>less</u> costly to provide phone service than the contiguous 48 states.[5]

The instant Petition for Reconsideration is entirely consistent with this record. As the Petitioners point out, "[t]he Commission's fundamental instructions to the Bureau were to develop benchmarks that could identify instances of wasteful investment or inefficient spending." The SCC submits that the Bureau has over-read its direction, since the benchmarks are now being used to identify raw values for disallowance. Consistent with the record and the Petition for Reconsideration, the Commission should correct the error by holding that the QRA statistical model should be used only to determine where further, *human* examination of the facts appears warranted. This is particularly true where, as here, the model is as flawed and unpredictable as demonstrated below. The failure to remedy this defect is surely arbitrary and bad public policy.

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[5] *Notice of Ex Parte of Manatuska Telephone Association*, WC Docket Nos. 10-90 and 05-337, filed April 29, 2013.

III. The QRA Model Remains Fundamentally Unpredictable

Limiting the use of the QRA benchmarks as discussed above would help reduce the lack of predictability inherent in the QRA model. The experience of the SCC's member companies shows that the benchmark method has in fact failed to provide for predictable and sustainable support for their operations. This lack of predictability has created dramatic uncertainty for investing in future rural telecommunications and broadband projects. The Petitioners are correct: "[r]ules that rely on inaccurate or outdated data; that fail to obtain meaningful statistically relevant outcomes; and that produce unpredictable outcomes on an annually changing basis cannot reasonably be deemed "predictable."[6] In the words of Commissioner Pai, "the QRA benchmarks are unpredictable… [t]his unpredictability does not promote certainty. And it appears the investment environment has cooled as a result, impeding the deployment of next-generation technologies and broadband services to rural Americans."[7]

Indeed, one SCC member previously indicated that the Commission's benchmark analysis may cause the company to forego as much as $37.5 million in RUS/ARRA loans and grants as a result of such uncertainty. In Peñasco Valley's case, it must deal with up to five separate state, local, and federal agencies, not counting tribal authorities, when trenching fiber. Moreover, spotted owl habitats reduce the construction season to two months in portions of Peñasco Valley's study area. These factors have significant, upward effects on the company's costs, yet none are recognized in the QRA model.[8] This failure and others like it render the

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[6] *Petition* at 13.

[7] Statement of Commissioner Pai, *Sixth Order* at p. 2.

[8] *Reply Comments of the Blooston Rural Broadband Carriers*, WT Docket No. 10-90, et al., filed February 17, 2011.

model inherently unpredictable; its results will match Peñasco Valley's reality only by coincidence.[9]

As prominent American economist Frank Knight noted, there is a difference between "risk" and "uncertainty," in that the former is predictable to some degree and can therefore be measured, and the latter is unpredictable and therefore cannot be measured.[10] No one is advocating for the elimination of risk, but rather the ability to predictably measure risk and, therefore, plan accordingly. Small rural carriers need the ability to intelligently measure the risks associated with network deployment. The current model does not allow this process to happen.

IV. <u>Conclusion</u>

For the forgoing reasons, the Commission should grant the Petition for Reconsideration. The record clearly demonstrates that the benchmark model, despite improvements since its initial form, remains incapable of providing the stable, predictable support mandated by §254 of the Communications Act of 1934, as amended in 1996. The Commission should use its benchmarks, at most, as triggers for targeted inspection, data collection, and analysis of a carrier's costs. This not only reduces the risk of lost funding for variables outside a carrier's control, but would provide the Commission with a reliable method for investigating and better understanding the challenges and costs facing telecommunications providers in rural America. Furthermore, it would help reduce the unpredictability inherent in the model by providing rural carriers with some expectation as to support for prudent investment.

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[9] Additional examples can be found in the *Balhoff/Alexicon Study*, cited throughout the Petition. *See* Letter from Vincent H. Wiemer, Alexicon Telecommunications Consulting, to Marlene H. Dortch, FCC, WC Docket No. 10-90, Attach. (filed Feb. 21, 2013) (*Alexicon/Balhoff Study*).

[10] Frank Hyneman Knight "Risk, uncertainty and profit" pg. 19, Hart, Schaffner, and Marx Prize Essays, no. 31. Boston and New York: Houghton Mifflin. 1921.

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Certificate of Service

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