McLean & Brown

ISSUE UPDATE

July 15, 2010

FCC Receives Comments in National Broadband Plan NOI/NPRM

On July 12, 2010, the FCC received comments from over 100 parties in response to its NOI/NPRM to begin implementation of the National Broadband Plan. The NOI seeks comment on the use of a proxy model to determine funding levels under the Connect America Fund (CAF), and to create an accelerated process to target funding to new deployment of funding in unserved areas. The NPRM seeks comment on specific "common-sense" reforms to cap growth and cut "inefficient funding" in the current high-cost programs, and to shift savings to the new CAF.

Due to the complexity of the subject matter and the volume of the responses, what follows is a very high-level summary of the main themes established in each party's comments. While this in no way constitutes a complete summary of the comments, it will give the reader an idea of the general direction that each party's comments take. Interested readers are encouraged to read the full text of the comments, which can be found on the FCC's web site at www.fcc.gov.

ACS

- Alaska presents distinctive challenges and needs relative to federal USF policies designed for nationwide application.
- While in need of reform, current federal high-cost mechanisms have successfully achieved policy goals in Alaska and should not be abandoned.
- The use of cost proxy models and reverse auctions will not achieve the FCC's goals given Alaska's unparalleled situation.
- Federal policy should favor competition over the re-creation of government-sponsored monopolies.
- The FCC should defer application of the policy changes outlined in the NOI/NPRM until such time as 95% of Alaskan communities have access to affordable terrestrial backhaul.

Regulatory Commission of Alaska

- The FCC should not adopt a model for purposes of estimating need for voice or broadband support for Alaska rural companies.
- Proposed interim funding mechanisms are not designed for Alaska and alternative funding measures are needed.
- Continued funding for voice services in Alaska is essential during the transition to CAF.
- The FCC should exempt Alaska from use of support models (if models are employed), the cap on ILEC support, and the phase out of CETC high-cost support.

Alaska Telephone Association

- Major issues include:
  - The proposed dichotomy of service between rural and urban America;
  - The disregard and proposed termination of an admittedly successful regulatory policy;
  - The proposed replacement of that policy with one modeled on a policy that has blatantly failed to deliver modern communications service to rural areas;
  - A proposed 10 year transition period wherein successful practices are left behind while future practices are yet to be determined; and
  - The apparent substitution of agency policy for federal law.
- Access to comparable telecom and broadband services for the really rural citizens of this nation are jeopardized by these proposed "reforms."

Alexicon Telecommunications Consulting

- The USF reforms in the NBP are premature without fully investigating alternatives that will provide workable solutions for RoR carriers.
- Implementation of NBP proposals should be delayed pending expansion of the record and developing workable solutions for rural RoR carriers.
- The NPRM appears to be legally insufficient and in violation of the Act.

Alma Communications Company

- Alma includes data that demonstrate how the proposed changes to the legacy USF are not favorable for the continuance of universal service in rural areas. Without sufficient replacement support, the proposed changes may jeopardize the financial viability of Alma.

American Cable Association

- The USF should be capped at 2010 levels.
- Eligible carriers with fewer than 100,000 access lines should have the option to continue to draw from today's USF unless the company chooses to access the CAF.
- The FCC should move cautiously in mandating the switch to incentive regulation for smaller carriers, especially in high-cost areas.

Argenbright & Kirkpatrick

- A comparison of RoR regulation vs. incentive regulation demonstrates that current RoR promotes efficiency and innovation.
- RoR regulation remains appropriate under current marketplace conditions.

Adtran, Inc.

- The OBI technical model includes several material assumptions that are unsupported, in conflict with generally accepted industry data, and/or are internally inconsistent.
  - The estimate of 160 Kbps for BHOL used for network dimensioning underestimates BHOL by a factor of almost three.
  - The capacity estimate of 650 fixed users per cell used for FWA modeling is unrealistically high.
  - The model incorrectly assumes paired 20Mhz channels in the 700 MHz band.
- No predictive model can substitute for the appropriate verification of performance.

AT&T

- By requesting detailed comment on modeling issues without determining whether a model is even necessary, and proposing to eliminate legacy high-cost support without indicating how this support will be distributed via CAF, the Commission has jumped the gun.
- While the Commission is considering the long list of CAF-related issues, it should declare that all ETC's, not just rural carriers, are permitted to use legacy high-cost support to deploy broadband.
- Most of the NPRM's proposals to transition support are premature.

Blooston Rural Carriers

- The goal of deploying ubiquitous broadband is critical to the future economic and social development of rural America.
- The initial rural broadband target (4/1) threatens a digital divide between urban and rural America.
- The Commission should not scrap a RoR system that has been very successful in producing broadband deployment by RLECs.
- The Commission should take a flexible approach that employs different broadband high-cost support mechanisms for RLECs and similar small and financially limited COLRS, and RBOCs, mid-sized and other large and financially powerful carriers.

BlueSky, Choice, & PR Wireless

- The Commission should provide an exemption for wireless carriers serving insular areas that restores high-cost support to pre-March 2008 levels.

Border Companies

- The Border Companies provide telecom and broadband service vital to US-Mexico border security agencies.
- These companies rely on current high-cost USF to provide their services.
- The NOI/NPRM's proposals to cap and cut the existing USF program would negatively impact cash flows and future investments.
- Mandatory transition away from RoR regulation is contrary to the public interest.

CenturyLink

- The Commission should adopt a CAF focused on supporting broadband in high-cost areas:
  - Funds should be provided only for targeted high-cost areas;
  - Funds should be provided only for one carrier with COLR obligations for voice and broadband services;
  - Costs should be determined for all participants using one model that targets support at a proper level of averaging (i.e., wire center).
- High-cost support must be sufficient to meet all obligations without unsustainable cross subsidies – no unfunded mandates.
- IAS support should not be eliminated immediately.
- Funds to CETCs should be phased out over a five year period.
- The BAM model is not defined sufficiently to provide detailed comments at this time.

Cheyenne River Sioux

- The transition to a broadband-based fund must include government-to-government consultation with individual Indian tribes and must not seek to impose a uniform system on all tribes.
- Capping support to tribal providers is not warranted because the providers will not be able to invest in new technology which improves service.
- The Commission should consider setting aside a Tribal Broadband Fund to enable continued infrastructure and technology investment on tribal, Alaska Native and Native Hawaiian Lands.

Coalition for a Competitive Communications Market

- Before extending the USF program to broadband, the Commission must first address the problem of the escalating USF contribution factor.
- The Commission should decrease and cap the factor, or adopt an alternative contribution methodology.
- The Commission must address glaring defects in the existing USF methodology that result in competitive inequalities favoring certain providers over others.

CoBank

- The key challenge in delivering broadband to rural America is that it costs 10 times more to provide local connections and 20 times for transit and transport costs than in urban areas.
- A sufficient and sustainable cost recovery mechanism is imperative to support the financing of ubiquitous rural broadband. There is no silver bullet to avoid this reality.
- While the existing cost recovery mechanisms need revisions to support broadband, do not discount the success of these tried and true mechanisms. Don't throw the baby out with the bath water.

Comcast

- The Commission should control the size of the USF by:
  - First capping and then reducing the size of the fund;
  - Shift subsidies to support the extension of broadband to unserved areas.
- The Commission should apply a meaningful portion of the savings from USF reform to reduce the overall size of the fund and the related burden on consumers.
- The Commission should consider the proposal by NCTA to eliminate unnecessary subsidies to geographic areas with competitive providers.

CompTel

- The Commission should cap the high-cost fund at 2010 levels minus the most current estimate of improper payments made from the fund (23.3%).
- RoR incumbents that receive universal service funding should convert to price cap or some other form of incentive regulation.

CTIA

- The Commission should modify its USF reform proposals to:
  - Refrain from implementing reductions to existing CETC support until an alternate mechanism is in place;
  - Phase out legacy high cost support on the same timeline for all participants;
  - Adopt the NPRM's common sense proposals for reform of legacy incumbent LEC funding; and
  - Adopt long-term reforms that are competitively neutral and ensure sufficient support (including on-going support) for the unique attributes and functionalities of mobile broadband services.
- RoR regulation eliminates incentives for efficiency and innovation, undermines competition, and must be eliminated.
- The Commission must carefully measure whether proposed changes will help or impede the twin goals of the US's mobile broadband leadership, and the 254 mandate that all consumers have reasonably comparable access to mobile broadband.

CWA

- The CAF should:
  - Subsidize only one broadband provider in high-cost areas;
  - Support networks that can upgrade to higher-capacity service to avoid creating a wider digital divide. Typically these will be wireline networks;
  - Support both capital and operating expenses;
  - Fund a defined geographic area rather than the antiquated rural and non-rural carrier status.
- Reprogram USF subsidies to support broadband:
  - Ensure investment, not exorbitant shareholder dividends;
  - Change the USF contribution mechanism to assess telephone numbers and connections;
  - Implement Verizon and Sprint merger commitments, and phase out other CETC support over 5 years.
  - Allow carriers to continue receiving IAS, but require that it be used to build out broadband to unserved areas.

Farmers Telecom. Coop.

- Proposals to cap and cut high-cost support would negatively impact cash flows and future investments.
- RoR regulation should not be abandoned due to its many benefits.
- The Commission has valid alternatives.

Fidelity Tel. Co.

- Fidelity provides data to demonstrate how the proposed changes in legacy USF are not favorable for the continuance of universal service in rural areas without sufficient replacement support and may jeopardize its financial viability.

Fiber-to-the-Home Council

- The Commission should eschew its proposed reduction and eventual elimination of the high-cost fund.
- The Commission can find sufficient funds by making funding for competitive providers more efficient and providing it only where no other provider is offering service, and by working with larger service providers to obtain their commitment to use funding to expand broadband to currently unserved areas.

Fred Williamson & Associates

- Provides data and analysis of the NPRM proposals:
  - RLECs would face a 40% to 65% revenue loss;
  - This would result in many rural RoR ILECs going through bankruptcy or out of business with devastating effects on the rural communities that they serve.

General Communications, Inc.

- The Commission should continue the policies it adopted in the tribal lands exception to the CETC cap, and treat CETCs on tribal lands in the same manner as ILECs during the transition to CAF and MF.
- Without high-cost support, GCI would be unable to deploy services and might have to cease service in parts of rural Alaska
- Any broadband investment gap model must reflect Alaska's unique geography and demographics before being applied to Alaska.

Givens & Bell

- In the Commission's broadband model, any wireless propagation prediction system developed and established by the Commission will be useful.

GTA Telecom

- The Commission's goal of universal access to broadband in rural areas is being achieved now by RoR regulated ILECs.
- The proposals in the NOI/NPRM to "cap and cut" legacy high-cost support would be detrimental to the continued deployment of broadband and the NBP's goals.

Home Tel. Co.

- Cost models, when used for small geographic areas, will almost always be prone to error that either overstates or understates cost, thus creating inefficient results.
- The NPB is only pricing out a relatively slow broadband connection that all parties understand will be obsolete in a few short years.
- The support revenues the Commission seeks to freeze are critical to continued broadband deployment, and retail voice rates cannot be increased to support proposed Commission revenue cuts.

Hughes Network Systems

- The Commission should refrain from imposing on broadband satellite service providers any obligation to pay into any USF or CAF fund. Similarly, satellite providers do not need any support.
- With new satellites coming on line in 2011 and 2012, satellite broadband providers will be able to serve some 3 million households at targeted speeds.
- The exclusion of satellite broadband from the Commission's modeling will lead to inefficient subsidization of terrestrial build-out.

ICORE Companies

- The two-step plan in the NOI/NPRM will destroy currently successful "legacy" USF programs, and could have unintended consequences, many of which are not in the public interest.
- The FCC lacks the legal authority to fund broadband service.

Indiana URC

- The IURC is concerned about the potential impact of the FCC's proposals on the IUSF, the willingness or ability of some ILECs to continue serving as COLRs, and, ironically, even the availability of broadband, as impacted by the continued viability of RLECs already delivering broadband service extensively, if existing "legacy" USF support is withdrawn.
- The NPRM proposes to "reform" or end existing federal universal service programs for "legacy voice services and to eventually replace them with primarily, if not exclusively, with support for capital expenditures involving both broadband and voice services, relying very heavily on wireless technologies to do so.
- This NPRM is revolutionary, not evolutionary. The FCC is seeking to use the universal service process to create *de novo* programs that will support a fundamental paradigm shift – not just of the universal service programs, themselves, but of the communications ecosystem as a whole.
- Insufficient analysis has been done regarding the potential impact of some of the FCC's proposals on small and mid-size RLECs and their customers.
- We recommend referral of two issues to the Joint Board:
  1. Modification of the list of federally supported services; and
  2. Funding or contribution issues that could affect the overall size of the fund

Internet2

- The Commission should adopt rules ensuring that recipients of CAF funding connect to community anchors in the relevant area, and to the national Research and Education (R&E) networks.

ITTA

- Proposals to eliminate or otherwise limit the availability of existing high-cost support to carriers that are providing broadband in supported areas should be suspended until the CAF is defined and poised for implementation.
- The NBP models must be made available for thorough testing by the industry, otherwise meaningful comment and input cannot be obtained.
- The Commission should act now to address phantom traffic, access stimulation, and obligations of VoIP providers to pay access for calls terminated on the PSTN.

JBN Tel. Co.

- JBN includes financial information that demonstrates how the proposed changes to the legacy USF are not favorable for the continuance of universal service in rural areas without sufficient replacement support and may jeopardize the financial viability of JBN.

John Staurulakis, Inc.

- The proposals in the NOI/NPRM would destroy the incentives that RLECs have historically had to deploy high-quality voice and broadband service in rural areas.
- To abandon the "tried and true" embedded cost method for a forward-looking cost model simply because of alluring claims of efficiency that have not been proven through actual testing and verification for rural carriers would be arbitrary and capricious.
- A cap on the federal USF does not address the requirement to take into consideration specific, predictable and sufficient federal mechanisms.
- Given the excellent track record of RoR companies in deploying broadband, it would be contrary to the public interest and arbitrary and capricious to require them to transition to price cap regulation.

Kentucky Tel. Assn.

- The proposals in the NOI/NPRM to "cap and cut" legacy high-cost support would be extremely detrimental to the continued deployment of broadband in rural areas, contrary to the NBP's goals.
- The Commission should reject certain NBP recommendations appertaining to RoR carriers and move forward in developing a mechanism consistent with the Communications act of 1934, as amended, that further the public interest.

Small Co. Committee of Louisiana Tel. Assn.

- The NBP directly contradicts the high-cost support provisions of the Act.
- The levels of broadband service proposed in the NBP will create a digital divide between rural and urban areas.
- The proposed USF changes in the NBP are fundamentally flawed, and the Commission should not force RLECs to move from RoR to incentive regulation.
- Market-based funding mechanisms (such as reverse auctions) are unworkable and will cause broadband funding to become unstable and unpredictable.

Massachusetts Dept. of Telecom. And Cable

- Applauds the Commission's decision to cap ILEC support and concurs that such a step will help to minimize the burden on consumers.
- Opposes a blanket elimination of CETC support, but CETCs should receive support based on their costs, and the number of CETCs per area should be limited.
- MDTC is troubled by the failure to raise COLR obligations for comment, or to address those obligations more directly in the NBP. The Commission needs to address the impact that USF reforms will have on those obligations.
- Supports the use of a reverse procurement auction in the interim as a way to provide one-time subsidies for deployment of broadband in unserved areas.
- Development of a cost model or cost/revenue model is premature in this early phase of the CAF transition period.

MACRUC States

- Oppose dramatic increases in the assessments paid by consumers or net contributors in the MACRUC region to expand broadband networks.
- Any recipient of a frozen and reformed FUSF program must demonstrate implementation of local reforms (e.g., local rate increases, access rate reductions, state USFs).
- States receiving FUSF support should be required to match that support dollar for dollar.
- Prefer a properly structured auction over the use of cost models for allocating funding given the lack of transparency in the FCC's model, the prior experience with models, and the fact that auctions should reduce overall FUSF costs.

Madison Telephone

- The objectives established under existing USF programs are being achieved and only minimal changes are necessary to modify the universal service program to address the FCC's broadband initiatives outlined in the NBP.
- Madison includes supporting data that demonstrate how the proposed changes to the legacy USF mechanisms are not favorable for the continuance of universal service in rural areas without sufficient replacement support and may jeopardize the financial viability of Madison.

Mercatus Center (GMU)

- The CAF offers the FCC the opportunity to make a clean break with past subsidy disbursement practices that were often ineffective, inefficient, and unaccountable for outcomes.
- Competitive procurement auctions would allow the FCC to achieve the greatest possible improvement in broadband availability or subscribership with limited subsidy dollars.

Millry Tel. Co.

- Millry includes supporting data that demonstrate how the proposed changes to the legacy USF mechanisms are not favorable for the continuance of universal service in rural areas without sufficient replacement support and may jeopardize the financial viability of Millry.

Missouri PSC

- Supports a forward-looking incremental cost model that includes revenues for determining support needs.
- Supports a competitive bid process for accelerating the provision of broadband service to unserved areas, however states should have the opportunity to provide input to the bid evaluation process.
- Supports the FCC's specific proposals to reform the legacy high-cost support program.

Missouri Small Tel. Co. Group

- Many of the proposals in the NOI/NPRM would abandon principles and structures that have been most successful in incenting broadband deployment in high-cost rural areas.
- Rather than throwing the baby out with the bath water, the Commission should adhere to the Federal Telecommunications Act's statutory universal service principles.
- Any USF broadband transition must include ongoing support for the MoSTCG companies that have already made significant investments in providing broadband to rural Missouri.

NASUCA

- The statutory directives still exist for affordable basic services, and for services in rural areas that are reasonably comparable to urban areas; they have not been replaced by the statutory directives regarding advanced services.
- The efficiencies that can be squeezed out of the current fund should represent the absolute maximum contribution of telephone customers to broadband. Any additional funding must come from the broadband services whose deployment is being supported.
- IAS should be eliminated as it was only supposed to last five years and now has been a ten-year revenue guarantee for price cap ILECs.
- The Commission should phase out remaining CETC funding (after immediately implementing the Sprint and Verizon commitments) over a five-year period.

NASUCA, et. al.

- Other commenters include The Maine Office of Public Counsel, Office of the Ohio Consumers' Counsel, Pennsylvania Office of Consumer Advocate, and the Utility Reform Network.
- The main advantage of the staff's modeling approach lies in evaluating both expected costs and revenues rather than focusing on costs alone, as was the case with the current approach to high-cost support.
- The information that has been provided by the staff is insufficient to allow for a full evaluation of the model. What is clear is that the current iteration of the NBP model has serious deficiencies that prevent it from being a useful tool for the Commission.
- In the Commission's previous decision regarding the appropriate cost methodology, it identified ten criteria that it considered necessary to develop a reasonable economic costing methodology. Unfortunately, the staff model is deficient on most of these criteria.
- Rather than planning for an auction, it would be more reasonable for the Commission to plan for the failure of auctions. The Commission should consider the use of established civilian agency procurement procedures set forth in the Federal Acquisition Regulations.

Native Public Media and The National Congress of American Indians

- As the Commission considers an overhaul of the USF, it must carefully balance the impact of reforms on legacy USF programs – simply eliminating current programs to provide funding for broadband could widen the communications gap and Digital Divide in Indian Country.
- Changes to the USF program must take into account the complexity and tensions between balancing tribal sovereignty and participating in the larger US society.
- Whatever route the Commission takes to reign in the costs of the USF program, it must continue to exclude providers of services to Indian Country, including CETCs, from such a cap, consistent with prior FCC precedent.
- The Commission should create a new USF program to support low-income broadband services on Tribal lands.

National LambdaRail

- CAF funding should be made available to build broadband facilities to community anchor institutions and to connect such institutions directly to regional and national R&E networks, as recognized in the RHCPP.
- CAF support should be made available to sustain the networks and services of regional and national R&E networks that are provided to community anchor institutions.

NATOA

- The Commission should promote broadband deployment regardless of the source, and ensure that local, state and tribal governments, as well as non-profit entities, are eligible for federal assistance in providing broadband services.
- The BTOP and BIP programs have been successful, and the Commission should seek to use the CAF to emulate their inclusive and innovative model.

Navajo Nation Telecom. Reg. Commission

- Because of the high cost of delivering basic communications service to the Navajo Nation, the High Cost, Lifeline and Link-Up programs are critical.

- Simply eliminating current telephone programs to provide funding for broadband could further widen the communications divide and the Digital Divide.
- Whatever route the Commission takes to reign in the costs of the USF program, it must continue to exclude providers of services to Indian Country from such a cap, consistent with prior FCC precedent.
- NNTRC supports the Commission's NBP in its recognition of tribal sovereignty and the unique trust relationship that exists between the FCC and tribal governments.

NCTA
- Supports the overarching USF reform goal of transitioning the existing high-cost support mechanism to a more targeted broadband mechanism without increasing the overall size of the fund.
- Supports the Plan's determination to provide for broadband speeds that reflect what average consumers are purchasing today.
- The Commission should immediately cap all existing high-cost mechanisms, and promote broadband by eliminating unnecessary legacy support as quickly as possible.
- A significant amount of high-cost support is currently being provided to areas where cable operators are providing unsubsidized broadband and voice services. Shifting support away from these competitive areas would not pose any risk to consumers' continued ability to receive service.

North Dakota Rural Telephone Group
- North Dakota telephone companies have relied on current high-cost support to achieve affordable broadband availability; disrupting high-cost support will impede continued investment.
- Mandatory transition from RoR to incentive regulation for rural carriers is contrary to the public interest.

Nebraska PSC and North Dakota PSC
- Increase the standard for broadband speed in rural areas so that the standard is reasonably comparable with the standard in urban areas.
- Adopt separate cost models for determining wireline broadband and wireless broadband support.
- Decline to adopt the proposal to use reverse or procurement auctions.
- Preserve states' ability to continue enforcing carrier or provider service quality and consumer protection standards.
- Implement appropriate and efficient mechanisms to encourage providers who haven't built broadband infrastructure to do so within a certain timeframe.
- Provide an incentive to states to supplement and encourage broadband deployment at affordable rates within their respective state borders

Nebraska Rural Independent Cos.
- Includes a study that demonstrates that the Commission's model understates wireless broadband costs and overstates wireline broadband costs.
- CAF support should be calculated based upon a consideration of a carrier's revenue and costs, but not all unregulated services revenues should be considered.
- Wireline technology is preferable to wireless technology for the provision of broadband service over the long term since wireless costs increase more rapidly that wireline costs as speed requirements increase.
- The 4/1 Mbps standard in the NBP is likely to be obsolete before the Commission implements even the first phase of the Plan.
- The Commission should take into account state COLR policies, should create new broadband POLR policy in partnership with state commissions, and should carefully manage COLR/POLR issues in the transition to support for broadband through the CAF.

Nebraska Telecom. Assn.
- The Commission should not relegate the nation's rural consumers to substandard broadband services when compared to urban consumers and jeopardize the financial viability of carriers upon whom these rural consumers have long relied for voice and now broadband services.
- The NBP displays a troubling lack of attention to COLR requirements that have served consumers well. Serious attention must be given to determine what these policies should be during the broadband transition.
- Based on an analysis of NTA member companies, the NBP's investment gap analysis should not be relied upon when determining the basis for USF support.
- Contrary to the Commission's public pronouncements of transparency in its proceedings, the cost model documentation is insufficient for outside parties to reasonably assess the methodology and, especially, the reliability and fairness of the results.

NECA, NTCA, OPASTCO, WTA & Rural Alliance
- While the exact details of the mechanisms described in the NBP remain unknown, it is clear that high-cost support under almost any Plan scenario will be insufficient to support the incremental build-out and maintenance of broadband networks and services in RLEC territories.
- Existing R0R regulation has played a key role in efficiently achieving today's levels of broadband deployment in RLEC areas. In contrast, incentive regulation has been demonstrably ineffective in encouraging investment in high-cost areas.

- While the Commission's model and associated data have not been made available to the public for testing, the Associations' preliminary analyses show the Model contains significant flaws.
- The Associations welcome the opportunity to continue working with the Commission to develop alternative broadband funding mechanisms for RLECs that will be consistent with the Act's call for "specific, predictable and sufficient" support, and that are also practicable to implement.
- The Commission should turn its immediate attention to the urgent need to reform the USF contribution methodology, and address certain discrete intercarrier compensation issues.

<u>New Jersey BPU</u>

- The Board is pleased that the FCC recognizes the need for minimizing burdens on American consumers.
- The Commission should immediately enact the following:
  1. Cap and reduce total high-cost support;
  2. Eliminate the IAS and CETC high-cost support; and
  3. Use an auction, with a single winner per study area, to distribute all high-cost funds.
- The Commission should reject a proposal for the creation of a new Broadband Mobility Fund and the funding of the CAF through the USF at this time.

<u>NTCH, Inc.</u>

- The USF program serves to prop up outdated technologies at enormous cost to the public when it is not at all clear either that a subsidy is necessary, or if necessary, that it's going to the right entity for the right services.
- Instead of reforming USF, the Commission consistently takes steps to make it even worse, presumably bowing to pressure from RLECs who seem to have convinced the Commission that civilization as we know it will come to an end if somebody other than them provides phone service to rural customers.
- The Commission should let the market handle the problem rather than regulation:
  - Carriers would receive the full amount of their funding if they accomplish universal broadband within their service areas within 3 years.
  - They would lose 25% of their support for each year thereafter that it takes to provide full service.
  - If full service was not provided in six years, they would lose all support and a new provider would be selected.

<u>National Tribal Telecom. Assn.</u>

- RoR carriers have successfully deployed advanced networks throughout remote rural communities. The current high-cost support model has provided the only sustainable support in isolated markets and should not be dismantled.
- Efficiency reforms in the USF should be aggressively crafted to maximize broadband and infrastructure investment impact in rural areas – however efficiency does not mean lowest cost support for cheapest networks.
- The Commission needs to honor its trust responsibility to provide parity of technology and service to Native communities.
- If the Commission does eliminate the high-cost support mechanism, it must honor its trust responsibility and create a funding mechanism and separate strategy to provide parity of technology and service to Native communities.
- NTTA proposes a Tribal Broadband and Infrastructure Fund and a Native resource strategy to achieve this.

<u>Ohio PUC</u>

- Supports the use of a forward-looking incremental cost model, but favors a comparison of a potential support recipient's cost to a nationwide average cost for determination of support.
- Supports the principle of competitive neutrality and reverse auctions for the distribution of support, but would qualify it so as not to place small rural companies at an inherent disadvantage when competing against large ILECs and intermodal competitors such as cable TV providers.
- The NBP does not take into account any high-cost support that carriers presently receive, but with the elimination of legacy high-cost support, any cost model adopted by the FCC must account for the support of these networks.
- Supports controlling the size of the high-cost fund, but rather than a cap on the overall fund, a per-line freeze may be a more appropriate action within the context of the NBP.
- A shift to incentive regulation will provide traditional RoR carriers with the flexibility required to foster innovation.

<u>Oregon Tel. Assn & Washington Independent Tel. Assn.</u>

- Looking just at intercarrier compensation reforms in the NBP:
  - In Oregon ICC reforms would push RLEC local rates to over $30/mo., and over $40 for some;
  - In Washington ICC reform would drive RLEC local rates to over $30/mo., with two companies over $60.
- The Commission's model lacks transparency, and there is no certainty at this time that the model will accurately predict the cost to provide service.
- The proposed USF reforms create disincentives to investment in rural Oregon and Washington, and may put existing loans from RUS at risk.
- Freezing support at 2010 levels is in conflict with 254(b) that rural areas should have comparable services and rates to urban areas.

Pennsylvania PUC

- Does not support revisions that merely reduce legacy support for the transfer of such support to build broadband into unserved areas. This would penalize early broadband adopters, particularly rural carriers that rely on federal support.
- The proposed reforms that limit support to broadband deployment, as opposed to ongoing voice and broadband support, are self-defeating since if support is eliminated then carriers currently providing service will no longer be able to do so.
- The FCC should abandon the proposal to eliminate RoR regulation, as this would be counter-productive. RoR regulation is a cost-based form of incentive regulation where the incentives match the FCC's desire to promote the provision of broadband. RoR regulation encourages investment.
- The FCC's model lacks transparency. The FCC should immediately release the model, its source code, all model inputs and all model outputs. This would allow parties to critically examine the model and suggest amendments.
- The NBP states that reform "requires federal and state coordination," however the FCC moved ahead without asking for or securing such coordination.
- An Appendix to the filing provides an alternative incentive regulation proposal based on current USF mechanisms and RoR regulation.

Peoples Telecom

- Peoples includes with these comments financial information that demonstrates how the proposed changes to the legacy USF are not favorable for the continuance of universal service in rural areas without sufficient replacement support and may jeopardize the financial viability of Peoples.

Pioneer Communications

- The proposals in the NOI/NPRM ignore the highly-successful universal service framework that has brought broadband to high-cost rural areas.
- The proposed changes will not only violate the USF principles in the Act, but will halt the expansion and maintenance of broadband networks in high-cost, sparsely-populated areas, harming the businesses and citizens of rural America.
- The best approach for the FCC to achieve the goal of bringing broadband to hard-to-serve high-cost areas is to continue to support the current RoR regulation framework and collaborate with rural carriers to develop less drastic alternative reforms.

Puerto Rico Tel. Co.

- The Commission should reiterate that Section 254 of the Communications Act requires that "insular" areas have access to services that are reasonably comparable to those in urban areas.
- The high cost model should not apply to insular areas; Puerto Rico and other insular areas require their own broadband funding mechanism.
- The FCC should establish an expedited pilot program to support broadband deployment to Puerto Rico and other insular areas.
- Re-targeting ICLS support in Puerto Rico should be predicated on an operational CAF and significant improvements in broadband and telephone subscription.

Qwest

- There should be two CAF mechanisms:
  1. A competitive bidding process to support broadband deployment to unserved areas; and
  2. A model for ongoing support of broadband and voice service in high-cost areas.
- The Commission should carefully review the speeds it has selected to define the universal broadband availability target.
- The Commission should ensure that COLR obligations only extend to the area for which broadband support is provided.
- The Commission should not begin to phase out IAS until after it implements the CAF so that carriers and investors have time to adjust.
- The Commission should cap legacy high-cost support at 2010 levels, and move forward with phasing out excessive and ineffective CETC support.

RICA

- The proposal for a five-year phase out of support to CETCs, which includes many RICA members, is neither sound policy nor consistent with the Act. The solution is to limit CETC support to entities that demonstrate cost justification as do rural ILECs.
- A properly constructed and validated cost model could make cost determination more efficient, provided there is a process by which service providers can demonstrate the model does not accurately predict their costs.
- A reverse auction is not an appropriate mechanism to determine which provider is supported in an area. Instead, the process must provide small companies a fair opportunity to become the supported provider.
- To the extent the Commission concludes that all revenues from the supported facilities should be included in the support calculation, the costs associated with those revenues (e.g., programming) must also be included.
- Both broadband and access to mobility are now essential and both should be supported, and one answer to do this is to move quickly to expand the contribution base to increase total support funds available.

Rural Cellular Association

- Competitive neutrality requires fair and reasonable treatment of mobile broadband providers, and wireless has become the dominant mode of voice communications. The new funding mechanisms should take this into account.

- A cost model is an effective method of targeting funds to rural and high-cost areas. The Commission should abandon the use of "actual cost" methods for rural telephone companies.
- The Commission should not pursue reverse auctions as a means for awarding universal service funding. American tax-payers should not have to fund a monopoly.
- RCA supports an initial target of 4/1 Mbps because with an upgrade path every four years, this target will ensure universal access.

Rural Telecom. Service Providers Coalition

- The Commission's two-step plan, as outlined in its NOI/NPRM and the NBP, will surely destroy currently successful legacy universal service.
- The FCC lacks the legal authority to fund broadband service, violating both Section 254 and Title II of the Act.

Rural Telecom. Group

- The Commission's decision to cap, cut, and eliminate "legacy" USF support violates Section 254 of the Act.
- The immediate focus on lower-cost, high-cost areas and eventual focus on higher-cost areas will result in support flowing to areas surrounding larger population centers, leaving rural Americans served by genuine rural providers without comparable services at comparable rates.
- Reducing support for wireless carriers will harm the public and is inconsistent with Sect. 254.
- The Commission lacks the authority under Title II of the Act to transfer these legacy funds to broadband services and providers.

Sandwich Isles Communications

- The historical similarities, negative impacts of geographic isolation, and the high cost of deploying critical broadband infrastructure for Hawaiian Home Lands justify eligibility of native Hawaiians for inclusion in federal programs that are intended to improve the socio-economic standing of American Indians and Alaska Natives.
- A new universal service program, i.e., a Tribal Broadband Fund, should be implemented by the FCC to encourage broadband development on Tribal lands.

San Carlos Apache Telecom. Utility

- Five "fatal flaws" identified in the National Broadband Plan (NBP) proposals
  1. Failure to utilize the existing USF structure as a starting point in developing another cost model;
  2. The single-tiered cost models proposed, which disregard rural carriers and result in a wider digital divide;
  3. A proposed cost model that replaces the rate-of-return model with a revenue sharing model; or a model that caps cost-return rates;
  4. The unequal disparity between broadband speeds proposed for urban and rural; 100 Mbps versus 4 Mbps;
  5. Failure to retain broadband services under Title I regulations; proposal to transition broadband to Title II.

South Dakota PUC

- As a regulatory agency from a highly rural state, we are concerned about the disparity between providing support for 4/1 Mbps broadband in high-cost rural areas, while setting a goal of affordable access to 100/50 Mbps for at least 100M homes by 2020.
- Past experience with the HCPM leads us to question whether a national model will be able to accurately reflect the costs of carriers serving rural states such as South Dakota.
- We are opposed to capping the fund at 2010 levels, since this may lead to carriers receiving insufficient funding. In addition, we do not believe it is necessary to move RoR carriers to price cap regulation.

South Dakota Telecom. Assn.

- The sweeping changes proposed in the NOI/NPRM will not only fall short of the NBP's goals, but cause substantial harm to existing rural networks, stranding investment and eliminating the significant gains made by RLECs across rural America.
- Critical functions such as COLR obligations and access to rural financing rely heavily on continued USF support. Reductions in USF will hamper RLECs ability to meet these obligations and put in jeopardy the ability to repay loans.
- The cost model process is inappropriate for determining USF support because it does not address the unique concerns presented in rural carrier service areas.
- The Notice ignores the well-developed record that a model or reverse auction would not effectively determine the appropriate amount of support, and would adversely impact consumers in RLEC service areas.
- High-cost reform should immediately focus upon eliminating the identical support rule, as recommended by the Joint Board, and the Commission should focus on fraud, waste and abuse in the low-income fund.

Schools, Health & Libraries Broadband Coalition

- Recipients of high-cost/CAF support (whomever they may be and however the amount of funding is determined) should be required to ensure that community anchor institutions have sufficient and affordable high-capacity broadband capabilities available to them as a condition of receiving support.
- These institutions should have the option of connecting to non-profit or for-profit research and education networks, municipalities and other

providers in addition to the traditional commercial providers.

Sprint Nextel

- The Commission should phase-out legacy high-cost USF to both ILECs and CETCs, use a forward-looking cost model to adjust support downward, and reflect incremental revenues a carrier can derive from its broadband network.
- The NOI's emphasis on broadband speeds, and its exclusion of any discussion of the benefits of mobility, constitute a distressing and potentially insurmountable bias in favor of wireline broadband solutions.
- It is untenable to propose a new broadband USF without also proposing a new contribution base – it is inappropriate to fund new broadband service subsidies on the basis of telecommunications revenues.
- Any new broadband USF should provide subsidies to the end user customer, rather than to a specific broadband service provider, and rely more heavily on a low-income mechanism to achieve universal broadband service.

TechAmerica

- The CAF should be technology-agnostic and flexible.
- The model should take into account the costs of all technologies currently used (and soon to be used) to offer voice and broadband service that meets the national broadband availability target.
- Build-out of fixed, very high capacity middle mile connections to anchor institutions will allow local wireless and fixed providers to build off these networks to reach homes and businesses in a community.

Telecom. Industry Assn.

- The Commission should establish a 5-year transition from existing support mechanisms to new broadband mechanisms – the proposed 10-year transition is too long.
- All elements of the new support mechanism, and particularly the model, must be competitively neutral, and the model must estimate all broadband deployment costs, as some existing broadband service depends on support.
- There should be a market-based mechanism to distribute support, and interim competitive procurement auctions.

TCA

- The proposals contained in the NOI/NPRM will not advance the deployment of broadband facilities in RLEC areas, and instead will almost certainly have the opposite effect.
- Investment in facilities in RLEC areas will cease, and rural consumers will face massive rate increases for services of a lesser quality than urban areas.
- The Commission should reject proposals to:
  - Limit support for data speeds in rural areas far below the goal for urban areas;
  - Arbitrarily reallocate USF from RLECs who have built broadband networks to large carriers who have prioritized profitability over broadband deployment
  - Replace the current, successful, RLEC regulatory regime with a regime that incents reducing investment and costs.

TDS Telecom

- The Commission's proposal to transition to a 4/1 broadband USF mechanism, while at the same time charting a course for 100/50 broadband service in 100M homes, will divide the US into a nation of communication "haves" and "have-nots."
- The Commission should be guided by three additional goals to achieve its universal broadband vision:
  1. To truly meet 254(b)(3)'s "reasonably comparable" standard, the Commission must aim higher than its proposed 4/1 standard in rural and high-cost areas.
  2. Before eagerly disassembling the current USF support structure, the Commission should take steps to understand, develop and test the support mechanism that will replace it.
  3. Rather than focus predominantly on short-term costs, the Commission should base its vision of a broadband USF on the entire range of variables that affect a consumer's ability to benefit from broadband networks.

Tel. Assn. of Maine

- The policies being promoted by the Commission appear to be designed to benefit those Americans who are the most well off or located in urban areas at the direct and immediate expense of the least well off and most rural citizens.
- The abandonment of universal service would be not only be contrary to general public policies but a direct violation of the law – the balancing of universal service needs to address shifting telecom paradigms is a job expressly reserved for Congress.
- Whomever receives support must provide COLR service to all customers within service territories that have developed over the past century under the regulatory guidance of the FCC and states.
- Support must be based on actual costs rather than projected costs or hypothetical forward-looking costs.

Time Warner Cable

- The Commission should reform universal service in a manner that reduces the size of the bloated high-cost subsidy mechanism, and ensures that any funding is distributed in a competitively and technological neutral basis.

- The Commission should adopt the NPRM's concrete and practical proposals for reigning in the explosive growth of the USF.
- Reverse auctions offer the most efficient and competitively neutral means of disbursing universal service support – whether in the context of legacy voice services or broadband.

T-Mobile

- The Commission should focus first on unserved areas that require lower amounts of subsidy to maximize the number of households that can be served quickly, and over time address those areas that are hardest to serve.
- The Commission should reject policies that prematurely terminate support to CETCs serving increasing numbers of customers, while continuing support to ILECs regardless of the continuing decline in their customer numbers.
- To advance the goals of the NBP, the Commission should follow these principles:
  - Universal service reform should be competitively neutral;
  - The high-cost program should ensure that consumers can choose the services most useful to them;
  - Any changes in current support levels should be accomplished through a properly measured transition;
  - Support should not transition out of current mechanisms until the new CAF and MF are in place
- Any reform measures must adhere to 254(b)(3) and provide rural consumers services reasonably comparable to urban areas.

TechAmerica

- The CAF should be technology-agnostic and flexible.
- The model should take into account the costs of all technologies currently used (and soon to be used) to offer voice and broadband service that meets the national broadband availability target.
- Build-out of fixed, very high capacity middle mile connections to anchor institutions will allow local wireless and fixed providers to build off these networks to reach homes and businesses in a community.

TSTCI

- RoR regulation should be retained and not replaced with price cap regulation
- Use of a forward-looking investment gap model for RLEC service areas should be rejected or revised to reflect the demographic and cost characteristics of the service area.
- The Commission's procurement auction proposal, much like the reverse auction proposal, should be rejected.
- Contributions to the USF and intercarrier compensation actions should be an immediate area for reform.

Texas and Oklahoma Small Co. Group

- The imposition of a cap on high-cost support and dismantling of RoR regulation will result in increased subscriber rates and will hamper RLECs ability to further invest in the network infrastructure supporting broadband services.
- The NBP's proposed 4 Mbps goal will result in the creation of a digital divide that will place rural Americans at a severe economic disadvantage which will ultimately impact the competitive footing of the US in a global economy.
- The Commission should allow existing and proven universal service mechanisms and RoR regulation to continue working.

US Cellular

- The Commission has determined that competitively neutral universal service mechanisms offer the best means of extending service throughout rural America, but a reverse auction mechanism would not result in the disbursement of support in a competitively neutral manner.
- Recent advances in cost modeling techniques make cost models an effective tool for determining appropriate funding and for targeting support.
- The Commission should promote the establishment of a robust mobile broadband ecosystem in rural America.
- Funding for mobile wireless services should include both construction and operating expenses, the phase down of current funding should be the same for wireless and wireline carriers, and the transition should be long enough to sustain quality service.

USA Coalition

- The American public would be best served by the Commission focusing on maximizing the benefits gained from each dollar of universal service funding rather than focusing myopically on minimizing the overall fund size.
- Single winner reverse auctions represent the prime example of a measure that focuses on reducing fund size at the expense of the American public, and the Commission should focus on alternative reform measures that would not undermine the foundation of competition upon which the Act is built.
- Support should be distributed based upon the costs that the incumbent and competitors actually incur, with every ETC serving a particular area eligible for reimbursement of an identical percentage of the eligible costs it incurs.

USTelecom

- It is important to properly sequence and transition changes to high-cost support and intercarrier compensation mechanisms so as not to abruptly impact revenue flows and create hardships and regulatory uncertainty for voice and broadband providers, and rate shock for consumers.

- A proper sequence would include several elements of intercarrier compensation reform, establishment of the CAF prior to changes in current support mechanisms, and the phase-out of CETC support.
- IAS should not be abolished until revenues from reformed USF and intercarrier compensation regimes can be reasonably predicted.
- It is premature for the Commission to propose elimination of RoR regulation.
- There is insufficient information to endorse or reject the use of a specific model at this time.

Utah Education Network

- Capping high-cost support at 2010 levels is prudent during a time of regulatory transition.
- The Commission should consider expanding the USF contribution base to include all service, service providers, and products that may be purchased or leased by any entity while using networks supported by universal service.
- The Commission's best hope for sensible and equitable distribution of CAF funds is to permit distribution of these funds through a mechanism similar to the E-rate program.
- Support for legacy services that do not promote effective broadband deployment should be reduced or eliminated over a 3 to 5 year time period.

Utah Rural Telecom Assn.

- The NBP does not ensure sustainable, predictable, cost-based universal service support that fulfills the Congressionally-mandated purpose to provide access to affordable, high-quality telecom services, including broadband services, in rural America.
- The Commission should not develop or implement any reverse auction mechanism for rural areas because of the negative effect it will have on rural infrastructure investment.
- Proposals to cap the current USF are artificial and arbitrary, and do not meet the statutory requirements of 254(b)(5).
- Incentive regulation has not provided adequate incentive to service providers to invest in infrastructure, and certainly will not in rural America.

Verizon and Verizon Wireless

- The Commission should protect consumers by capping the high-cost fund close to its current level and managing the size of the fund in the interim by capping incumbent support by study area.
- The Commission should phase out LEC support from legacy high-cost mechanisms on the same schedule for both RoR and price cap LECs.
- The Commission should phase out existing support to all wireless CETCs on the same schedule, and not single out Verizon Wireless and Sprint.
- Fixing the broken USF contribution system must be a priority and should be addressed before or at the same time as the Commission establishes the CAF and MF.
- The NBP model is a useful tool, but the Commission should rely principally on market-based mechanisms to distribute broadband funding, not cost or revenue models.

ViaSat & WildBlue

- The next generation of broadband satellites, the first of which will be launched in 2011, will be able to provide 4/1 Mbps service (or better) to all of the Commission's estimated number of unserved households in America.
- Satellite broadband systems can fill the availability gap at a capital cost of less than $1,000 per housing unit, not the $56,000 per housing unit estimated in the Plan to reach the last 250,000 homes.
- In order to maintain competitive neutrality and minimize the size of the CAF, the cost to serve a high-cost area with high-quality satellite service should be included in a forward-looking cost model.
- The requirement that ETC status be established on a state-by-state basis handicaps nationwide service offerings.

Virgin Islands PSC

- The USF reform proposals in the NOI/NPRM will undermine efforts to bring about greater access to infrastructure for both broadband and voice grade service in the Virgin Islands.
- The Virgin Islands is very different from other jurisdictions on the US Mainland, including most rural areas.
- We are not convinced that economic modeling or reverse auctions will provide enough support for the infrastructure needed here.

Vonage

- The Commission should require any recipient of broadband USF to offer broadband on an unbundled basis, and the model should not assume that the broadband provider will face no competition for voice or video services that can be delivered over broadband.
- The Commission should focus on reducing the burden universal service contributions place on consumers by identifying savings opportunities to reduce the total size of the fund.

Washington UTC

- While there will be substantial debate regarding the detail and nature of an analytical framework to address costs and broadband funding, the current funding mechanism has generally worked well to support telecommunications service to consumers in the state of Washington.
- The Commission must ensure that the analytical tools that are developed and adopted in support of this policy shift are suitably accurate and sufficiently flexible to properly reflect the specific local or

regional circumstances of states like Washington; a state that has broad swaths of service areas with extremely varied operational characteristics.

Warinner, Gesinger & Associates

- Financial models contain arbitrary cost assumptions that may or may not produce realistic results for rural America.
- Legacy USF programs, combined with RoR regulation, have a proven track record of bringing advanced services to consumers located in high-cost areas of rural America and can be used to address the broadband availability gap referenced in the NBP.
- To address the broadband availability gap in rural America, the Commission should consider adopting the procedures outlined in the NOFA released under the ARRA.
- Proposal to phase out legacy USF programs and redirect existing USF to designated unserved areas would be devastating to existing rural telecom and broadband service providers and the rural communities where they serve.

Wheat State Tel.

- Wheat State includes with these comments supporting financial documentation that demonstrates how the proposed changes to USF programs are not favorable for the continuance of universal service in rural areas without sufficient replacement support and may jeopardize the financial viability of Wheat State.

Wiggins Tel. Assn.

- How does the Commission reconcile its duty under 254(b)(3) with its recommendation in the NBP of only 4 Mbps in rural areas and 100 Mbps in urban areas?
- Does the Commission believe large companies using price caps and cost models are a success story in the provision of broadband/Internet in rural areas?
- How many of the policy making staff of the Commission have lived in or even visited rural America?

Windstream

- The Commission must act now to adopt USF reforms that stop the current practice of effectively prioritizing rural consumers served by small RoR carriers over those served by price cap carriers like Windstream.
- The Commission should develop a new cost model to estimate the costs of providing broadband and voice access to consumers who would not be served absent government support.
- The Commission should use the new cost model to support two new distribution mechanisms:
  1. This mechanism would offer both up-front deployment and recurring funding because conditions in high-cost areas receiving this support otherwise would preclude sustained operation of existing facilities;
  2. The second mechanism would complement the first by offering one-time-only funding for deploying broadband facilities to consumers in areas where costs are not high on average, but who nonetheless are very costly to serve.
- Legacy high-cost support should be capped at 2010 levels.
- The Commission should phase out CETC support, and move RoR carriers to incentive regulation – or pursue other measures that would bring funding to RoR carriers in line with support received by carriers under incentive regulation.

Wyoming PSC

- The FCC's model and assumptions cannot reliably identify broadband gaps or target support for rural areas of Wyoming.
- For rural areas characterized by sparse population, small population centers, and very large areas, the FCC should adopt a more specific and relevant analysis involving local knowledge and closer partnership with the states.
- Capping legacy high-cost support to incumbent telephone companies would have substantial negative impacts on Wyoming.
- For states with an average county size greater than 4,000 sq. mi., the FCC should not average census block level data at the county level; rather it should provide policy and funding with greater care to recognize the important localized nuances of providing broadband in vast, sparsely populated open spaces.
- Compounded by the choice of geographic area to determine the cost of broadband and the inherent problems related to Wyoming's unique geography and demographics, the FCC's method of determining funding to support wireline or wireless infrastructure is not appropriate.

YourTel America

- High-cost funds should be available for urban areas with broadband adoption issues.