

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

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	WC Docket No. 05-337
Seeks Comment on the Long Term, Comprehensive)	CC Docket No. 96-45
High-Cost Universal Service Reform)	

**NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION
INITIAL COMMENTS**

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The National Telecommunications Cooperative Association (NTCA)¹ hereby submits these initial comments in response to the Federal Communications Commission’s (Commission’s or FCC’s) Public Notice in the above referenced proceeding (Notice).² In this Notice, the Federal-State Joint Board on Universal Service (Joint Board) seeks comment on long term, comprehensive universal service reform, including but not limited to, reverse auction proposals, network cost models, mandatory disaggregation, substitutes for the identical support rule, and whether “broadband” should be included to the list of services supported by universal service.

I. INTRODUCTION AND SUMMARY.

During the last two decades, rural ILECs have invested in rural, high-cost and insular areas in the United States based on a system of rate-of-return regulation, NECA³ pooling, and

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 575 rural rate-of-return regulated telecommunications providers. All of NTCA’s members are full service incumbent local exchange carriers (ILECs) 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 (Act). NTCA’s members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² *Federal-State Joint Board on Universal Service Seeks Comment on Long Term, Comprehensive High-Cost Universal Service Reform*, Public Notice, WC Docket No. 05-337, CC Docket No. 96-45 (Public Notice) (rel. May 1, 2007).

³ National Exchange Carrier Association (NECA).

universal service support. This existing regulatory structure has allowed the Commission to meet its Congressional mandate to ensure rural consumers access to communications services at prices that are comparable to similar services and prices received by urban consumers. Applying the current embedded-cost methodology to determine rural ILEC high-cost universal service support has enabled the Joint Board, FCC and Congress to achieve its universal service goals in areas served by rural ILECs. This methodology is not broken and is not the cause of the dramatic growth in the size of the high-cost USF mechanism. The Joint Board and the Commission should therefore focus its energy on long term solutions that address the main problem with the high-cost universal service funding mechanism which is basing competitive eligible telecommunications carrier (CETC) support on ILEC costs and granting multiple CETC designations in ILEC service areas that have already achieved the Act's universal service goal of providing affordable and comparable rates and services to consumers living in these ILEC service areas.

The implementation of reverse auctions for determining the distribution of universal service in rural ILEC service areas with preexisting infrastructure and ubiquitous service would be a serious mistake. Imposing hypothetical costly network cost models on rural ILECs to determine future universal service support or forcing rural ILECs to disaggregate study areas to determine future universal service support would also be a serious mistake. NTCA therefore urges the Joint Board to consider and recommend to the FCC the following alternative methods which will accomplish the Joint Board's and FCC's goals with much less risk to those consumers

who rely on sufficient, reliable universal service support for the provision of their communications services:

1. Dismiss reverse auctions as a means for determining future high-cost universal service support in areas with preexisting communications infrastructure;
2. Reject the use of geographic information system (GIS) technology and hypothetical network cost modeling, which do not take into account actual costs, competitive conditions, and variables unique to individual small rural ILECs;
3. Reject mandatory disaggregation;
4. Abandon the identical support rule;
5. Require all CETC universal service fund (USF) support to be based on CETC costs;
6. Establish a separate proceeding to determine whether broadband should be included in the definition of universal service;
7. Establish and enforce a meaningful public interest test for CETC applicants; and
8. Expand the base of USF contributors to include all broadband service providers.

II. THE JOINT BOARD SHOULD DISMISS REVERSE AUCTIONS AS A MEANS OF DETERMINING HIGH-COST UNIVERSAL SERVICE SUPPORT IN RURAL AREAS WITH PREEXISTING COMMUNICATIONS INFRASTRUCTURE.

In NTCA's previous initial and reply comments in the Joint Board's recent reverse auction proceeding, NTCA offered material and substantial evidence as to why reverse auctions were not a viable option for the disbursement of high-cost universal service support in areas with preexisting infrastructure.⁴ Alaska Pacific University professor Dale Lehman authored two papers which provided compelling evidence supporting NTCA's position.⁵

⁴ *In the Matter of Federal-State Joint Board on Universal Service Seeks Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support*, WC Docket No. 05-337, FCC 06J-1 (Reverse Auction Proceeding.) NTCA Initial Comments filed October 10, 2006; Reply Comments filed November 8, 2006.

⁵ Dale Lehman, "The Use of Reverse Auctions for Provision of Universal Service," filed with NTCA's Initial Comments in Reverse Auction Proceeding; "Reply to Reverse Auction Comments," filed with NTCA's Reply Comments in Reverse Auction proceeding.

While reverse auctions may be an appealing theoretical construct, in reality they are fraught with uncertainty and risk.⁶ As demonstrated in other countries, there are insurmountable difficulties associated with defining the terms of the auction.⁷ In addition, administration of a reverse auction is time and labor intensive, prohibitively expensive, and technically burdensome.⁸ Finally, all of the reverse auction proposals offered in this proceeding, including the Verizon, CTIA, and Alltel proposals, fail to address the critical issue of standard investment.⁹

The wireline infrastructure in this country, which has been built with significant assistance from universal service support, is ubiquitous and high-quality. The FCC's most recent telephone penetration report shows that 93.4% of all America households subscribe to telephone service;¹⁰ rural service providers are working hard to increase that figure. Imposition of a reverse auction scheme for universal service distribution, however, will increase the overall level of risk inherent to serving high-cost customers, and increasing risk will only serve to threaten the viability of future investment and the goal of universal service throughout the United States.

While NTCA supports the Commission's overall goal of curtailing excessive growth of and inefficiency in the high cost universal service fund, it is not the incumbent local exchange carriers who are responsible for the dramatic growth and inefficiencies in the high-cost fund. As FCC Chairman Kevin Martin correctly pointed out in his statements at the Joint Board's *en banc* hearing on reverse auctions, "almost all of the recent growth in high-cost universal service is

⁶ NTCA Reverse Auction Proceeding Initial Comments, at 4.

⁷ *Id.*, at 5-6.

⁸ *Id.*, at 9-13.

⁹ *Id.*, at 13-15.

¹⁰ FCC Report: *Telephone Subscribership in the United States, Data Through November 2006* (rel. May 8, 2007), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-272906A1.pdf, at 1.

largely as a result of CETC access to high cost support.”¹¹ CETC USF payments have grown by 101% annually since 2002.¹² CETCs received \$1 million in USF support in 2000; recent estimates have them receiving almost \$1 billion in 2006.¹³ Imposing a “solution” which increases overall risk imposed upon ILECs and threatens their ability to make future investments is clearly not the answer.

A. The Verizon, CTIA and Alltel reverse auction proposals are not viable solutions to the problem of a ballooning high cost universal service fund.

In the Notice, the Joint Board seeks comment on reverse auction proposals submitted by Verizon, CTIA, and Alltel.¹⁴ None of these proposals solves the myriad problems highlighted above and in NTCA’s previous comments on reverse auctions.

The Verizon proposal consists of four steps. In step 1, a cap would be placed on high cost support at current levels. In step 2, the Commission would adopt an auction design and framework. In step 3, auctions would start in areas in which multiple wireless CETCs currently operate and receive support, followed by a parallel set of auctions for wireline CETCs. A single wireless and wireline winner would ultimately be selected. Finally, in step 4 the Commission and the Joint Board would review the auction experiences and decide next steps, which would include the possibility of conducting a single auction in which both wireline and wireless carriers would participate.

The wireline auction proposed in step 3 raises the significant issue of stranded investment, which NTCA addressed in detail in its previous comments in the reverse auction

¹¹ Kevin Martin, Federal-State Board on Universal Service *En Banc* Meeting, Opening Remarks, Washington, DC, February 20, 2007, at 4.

¹² *Id.*

¹³ *Id.*

¹⁴ Public Notice ¶ 4.

proceeding and later in this section of the comments.¹⁵ Incumbent carriers, who have made significant investments in infrastructure according to existing regulatory compacts, are placed in dire jeopardy unless the issue of compensation for those investments is addressed.

Equally troubling is the intermodal auction proposed as part of step 4 of Verizon's plan. In reality, wireline and wireless service are complementary services rather than substitute services. Each does certain things well that the other does not. In addition, selecting a wireless carrier as the sole winner may ultimately result in their losing access to support services which were factored into their original bid--such as backhaul services from a wireline carrier.

The CTIA reverse auction proposal is built upon the concept of "winner takes more," whereby the auction winner would be awarded support in the full amount of their bid while higher bids would be penalized with a lower percentage of the winning support payment. CTIA advocates relaxing coverage and/or quality of service obligations for wireless CETCs bidding to service wire center geographies. Professor Dale Lehman, in his remarks at the February 2007 Joint Board universal service *en banc* hearing, neatly summed up the fatal flaw in the CTIA plan:

The CTIA proposal essentially asks reverse auctions to answer the question: can wireless providers provide something *less than* universal service for lower costs than it cost incumbent rural ILECs to provide universal service? I do not think this is a useful question—the answer is yes, but that tells us nothing meaningful. CTIA would then reduce ILEC support as a penalty for bidding more to provide universal service than a wireless carrier bids to provide less than universal service (emphasis retained.)¹⁶

¹⁵ NTCA Reverse Auction Proceeding Initial Comments, at 13-15.

¹⁶ Dale Lehman, Alaska Pacific University, written remarks submitted to Federal-State Joint Board *En Banc* Hearing on Universal Service, February 20, 2007, at 1.

In other words, CTIA's plan would impose an apples-to-oranges competition across technological platforms. The results would ultimately have a detrimental impact upon the quality of service provided to customers in rural areas.

Alltel proposes a pilot reverse auction system focused on broadband deployment. Universal service funds would be allocated to bidders that commit to deploy basic and advanced services, including broadband service of 400 kbps or faster, to selected unserved and underserved markets. Non-auction winning ETCs could receive comparable per-line support provided they are willing to make the same service commitment.

Chairman Martin, at the February Joint Board *en banc* hearing, said "I do not agree with Alltel...that even those ETCs that do not win the reverse auction should get universal service support. Universal service is not about competition. It is about providing service to those in areas where competition and market forces alone will not result in the services available in more urban areas of the country."¹⁷ This fact, illuminated by Chairman Martin, has played a significant role in allowing the high cost fund to balloon as it has. Universal service support is not intended to subsidize competition in areas where it would otherwise not exist. Any plan which would ultimately result in carriers migrating to a particular service area as a result of the lure of universal service funding will ultimately result in an unnecessarily large fund.

B. Reverse auctions are at odds with the Act which requires "specific, predictable, and sufficient" universal service support mechanisms.

Reverse auctions assume that the public will benefit if support is limited to the least cost provider. The object of high-cost support is to ensure that consumers in rural areas receive comparable services to those received by urban consumers and that they are able to obtain those

¹⁷ Martin *En Banc* Remarks, at 6.

services at comparable rates. A system that limits support to the lowest bidder is highly unlikely to achieve this objective and cannot ensure that the goals of the Act will be consistently achieved throughout the United States. Support to the lowest bidder is inconsistent with the notions that companies must invest in networks to maintain service and that the evolution of the definition of universal service requires additional and timely investment in new technologies. The Commission's experience with competitive bidding for spectrum-based licenses (e.g., NextWave) shows that the speculative nature of auctions has the potential to create years of uncertainty for licensees and the public. Highly erratic, competitive bidding is at odds with an Act that requires "specific, predictable, and sufficient"¹⁸ support mechanisms.

Additionally, the use of reverse auctions to decide which carriers obtain support and how much they obtain would deprive the states of regulatory oversight of the ETC designation process and impinge on the ability of federal and state regulators to assess whether support is "sufficient" to achieve the goals of universal service. Even if ETC designations were left to the states, the use of competitive bidding to award support would render a state's determination *pro forma*. Auctions would make state public interest findings irrelevant.

Furthermore, the Act does not give the Commission the authority to compel states to proceed by competitive bidding. States have the statutory option to choose one or multiple eligible telecommunications carriers in rural areas if it is in the public interest and they cannot be forced to conduct an auction themselves or submit to the results of a Commission auction.¹⁹ Also, the circumstances that allowed a state to designate a carrier as an eligible telecommunications carrier might change after competitive bidding. A bid that is neither

¹⁸ 47 U.S.C. § 254(b)(5).

¹⁹ 47 U.S.C. § 214(e)(2).

“sufficient” nor in the public interest, due to variable auction results, might not satisfy a state’s original decision.

Even if the Commission had such authority or worked with the states to compel all state-designated eligible telecommunications carriers to bid, the bidding process would likely not satisfy the level of quality service contemplated by the Act, since the winning bidder could be the carrier which intends to commit the least amount of resources to the area. Competitive bidding is contrary to the Act’s emphasis on “quality services.”²⁰ More importantly, basing the study area support level on the lowest bid from all eligible carriers²¹ would risk providing a support level that would not be “sufficient” as the Act requires. Under this scenario, a CLEC would be able to target the higher volume and lower cost customers in an ILEC’s study area through selective marketing and preferential rates. As a result, the CLEC would be able to lower its universal service support bid, forcing the ILEC to make do with insufficient support for the remaining higher cost customers.

It has often been argued that the winners at auction are those who value the auctioned item the most. In reality, however, winning bidders are those for whom the opportunity cost of the funds bid is the lowest. An auction for USF funds, then, would tend to favor: (1) those with access to large amounts of capital; or (2) those who would prefer to have cash on hand rather than spending it to serve their customers. In short, a USF reverse auction would give an advantage to those parties who need USF funds the least.

²⁰ 47 C.F.R. § 254(b)(1).

²¹ Recommended Decision, ¶ 343.

Auctions are expensive to conduct, time consuming, administratively difficult, and require some degree of training for participants. The potential for fraud, whether on the part of an individual participant or through the collusion of several parties, is always present. Constant monitoring and vigilance would therefore be required to ensure the integrity of the auction results. The cost of administering the auctions, preventing fraud, and monitoring the results would ultimately increase the size of the universal service fund and could potentially outweigh any benefits gained from the process.

C. Stranded Investment and Confiscation.

Rate-of-return rural ILECs are making good on their promise to deliver broadband services to rural areas.²² Rural ILECs have made significant investments in the rural high-cost portions of America under an existing universal service support system that allows for recovery of a sufficient portion of a carrier's embedded costs of total regulated facilities. If these costs are no longer recovered through universal service, and an alternative recovery method is not available or prohibited by regulators, then these costs will become stranded investment.²³ As Commissioner Copps stated:

[i]t is essential, that any regime we adopt increase certainty so that rural carriers can plan for the future and undertake necessary investment to modernize the telecommunications infrastructure in their communities.²⁴

²² *NTCA 2006 Broadband/Internet Availability Survey Report*, August 2006, www.ntca.org.

²³ The term "stranded investment" typically means plant facilities that are no longer in use and have not fully recovered their costs. However, in the context of this proceeding, stranded investment can result in plant facilities that are not fully recovering their costs but are still in use.

²⁴ *In the Matter of the Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation*, CC Docket No. 98-77; *Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, (2001)(MAG Order), *Dissenting Statement of Commissioner Michael J. Copps*.

Given the Act's goal of preserving and advancing universal service to ultimately provide consumers with access to advanced telecommunications and information services, failure to address stranded cost would be completely at odds with the intent of Sections 254 and 706 of the Act.

If a rate-of-return ILEC loses a bid, the new provider will take over the service territory and some of the rural ILEC's network may be stranded or underused. Similarly, if a rate-of-return carrier wins the bid and its going forward support is fixed for x-number of years, its ability to recover its regulated cost will be at risk and stranded investment may result. Given that a portion of a rate-of-return ILEC's investments/costs are recovered through universal service support and were approved as reasonable by state and federal regulators, ILECs should receive cost recovery for these investments. In addition, regulators will need to decide in advance if the new provider will be allowed to use the portions of the rural ILEC's network, and at what level of compensation to the ILEC. Regulators will therefore need to adopt procedures and rules to compensate investors for the physical structures that may now go unused or be repurposed. Prudently-incurred investments made under the prevailing business and regulatory climate at the time they were made deserve reasonable compensation. It will fall to the regulator to solve the difficult matter of determining the specifics of the compensation.²⁵ These administrative and legal concerns are significant and complex.

²⁵ It is interesting to note that the electric utility industry has been struggling with this stranded investment problem for many years without ultimate resolution. *See*, "Electric Utilities: Deregulation and Stranded Costs," Congressional Budget Office, October 1998.

The Supreme Court recognized the important role states play to avoid issues of preemption and confiscation.²⁶ The Court stated that, “proper regulation of rates can be had only by maintaining the limits of state and federal jurisdiction.” Congress obviously intended that state and federal representatives work together, make compromises and negotiate something that would work for both the federal government and the states. Given the complexities of the issues in this proceeding and the potential far-reaching ramifications, it is difficult to imagine that a reverse auction proposal can adequately address stranded investment issues associated with rate-of-return regulated rural ILECs unless the recovery of past investments is provided for before the auction is put into place.

III. REJECT THE USE OF GIS TECHNOLOGY AND HYPOTHETICAL NETWORK COST MODELING, WHICH DO NOT TAKE INTO ACCOUNT ACTUAL COSTS, COMPETITIVE CONDITIONS, AND VARIABLES UNIQUE TO INDIVIDUAL SMALL, RURAL ILECS.

The Joint Board seeks comment on geographic information system (GIS) technology and network cost modeling.²⁷ While NTCA agrees that significant advances may have occurred in network cost modeling and the availability of location data, systemic problems inherent with cost modeling present significant challenges. Cost models are intellectually appealing but are costly to build and maintain. While computing capabilities have increased greatly in the last 10 years and geographic location data may be more readily available for wireline modeling, the challenges associated with developing accurate cost models are still formidable. Skilled professionals with a good understanding of the relevant issues may be able to employ GIS technology to perform sophisticated analysis of information and do a better job of modeling

²⁶ *Smith v. Illinois*, 282 U.S. 133, 51 S. Ct. 65 (1930).

²⁷ Public Notice, ¶ 5.

distribution plant. However, a high quality model is only achieved by gaining a sound understanding of the activity being modeled with careful attention to details and building a model with sufficient sophistication to recognize the wide variety of circumstances in both urban and rural areas. This includes identifying relevant factors, understanding the relationships among the factors, and gathering sufficient data to appropriately model the network configuration and costs. This work is time consuming, labor intensive, and is perishable, (i.e., it is time sensitive). Accuracy demands granularity, granularity requires capturing large amounts of data, and greater accuracy requires greater detail. All of which means that models are resource intensive, take lots of time to develop and are expensive.

Policy issues that were discussed and addressed in the development of the non-rural USF model adopted in 1996 will need to be revisited. This will include a review of and revision to the determination of what is the current forward-looking technology. In addition, the Synthesis Model was developed under the assumption that competition was “non-existent” and that a wireline network would be built to all locations where service was provided. Any new model development will need to take into account the changed competitive environment and the fact that the environment cannot be assumed to be non-competitive. Modeling will thus need to include determinations of the level of competition in various areas and forward-looking assumptions as to how many and which locations will be served by the forward-looking networks.

Any new model development will also need to take into consideration technology changes that have occurred in the last ten years. In addition, validating an updated or new model will require reviewing and verifying all of the inputs to the model or models. In developing the

Synthesis Model, this took a period of some two years. It can be expected that it would take a similar time frame, and perhaps longer, to gather updated inputs to a more sophisticated model. In addition, with increased competition between network providers, the sensitivity of cost data has increased and it is likely going to be more difficult to gather such information from non-proprietary sources than it was when the Synthesis Model was developed.

Not only do hypothetical cost models require detailed knowledge of costs for multiple technologies and variations in installation and operating costs across the spectrum of applications, but rapid changes in telecommunications technology often impact cost-benefit relationships altering underlying engineering and design assumptions. It is not unusual for the combined impact of multiple changes to affect the business case and alter investment strategies. In addition to technological changes; from time to time there are also changes in rules and laws. Thus, the accuracy and usefulness of a cost model erodes with the passage of time. Periodic adjustments and refinements are needed to maintain model accuracy. Without timely adjustments to reflect changes in relationships among the multitude of factors used by the model and updates to cost factors the model will become irrelevant.

Model complexity increases when factors such as geography, demographics, company size, company philosophy and relevant market characteristics are considered. Furthermore, models are not perfect and cannot be made perfect. Models work best in a stable environment where relevant cost variables and inter-relationships can be determined. Also, model accuracy varies inversely with the size of the company being modeled. The probability that a model fails to reasonably reflect actual costs increases as the size of the company decreases. Variables that

average out for large companies and, hence, do not affect overall model accuracy for a large company may vary greatly among small companies.

Model accuracy becomes more difficult to obtain as models are applied to smaller and smaller areas. For instance, it is much more difficult to model costs for individual wire centers than to model average costs for all wire centers in a region. At the wire center level questions such as local terrain variations may greatly affect construction costs. Some areas have old lava flows: is it better to go around or to blast through them? There are some areas where streams must be avoided because of protected species of fish: how is this taken into account? Cable routes normally depend upon getting easements and right-of-ways. Because of this, cable routing may not necessarily be the most direct route – but may be the most cost effective route. Sometimes local governing bodies may require a specific method of construction such as trenching everything rather than using a cable plow, which is much less expensive. Does the model account for areas that have a drain tile in ditches, which need to be individually bored and is much more expensive? Also engineering design for an area may vary just because one area is growing while another area is losing population. It is important that any model have the capability to accommodate the relevant local conditions. Failure to capture meaningful local differences undermines model accuracy.

All in all, models can be helpful, but the costs of modeling escalate rapidly in the face of dynamic change and as granularity increases. And, if anything, the telecommunications market is one that is subject to rapid technological change. It is costly and difficult to develop a model and it is also costly and difficult to keep a model up-to-date. It would be an enormous undertaking to accurately model the thousands of rural wire centers in the nation. And the task

of maintaining model accuracy for rural areas would necessarily demand significant annual resources and would be very expensive. For these reasons, NTCA opposes the use of hypothetical network cost models which do not take into account actual costs, competitive conditions, and variables unique to individual small rural ILECs to determine high-cost universal service support for rural ILECs.

IV. REJECT MANDATORY DISAGGREGATION.

The Joint Board seeks comment on whether the Commission should require all carriers to disaggregate support below the study area level or wire center level.²⁸ The answer is no.

The residence of a wireless customer utilizing mobile services may or may not have a relationship to the situs of the service and hence the costs of providing that service.

Consequently, reliance on the subscriber's residence will not make it possible to determine whether CETCs providing mobile wireless services are receiving the proper level of disaggregated support.

Section 214(e)(5) provides that for an area served by a rural telephone company, the term "service area" means such company's study area. Therefore, if a competitor receives ETC designation for an area served by a rural telephone company, it must offer service throughout the company's study area. The statute implicitly acknowledges that study area wide service and support to companies willing to provide service throughout rural telephone company study areas is most consistent with the goals of the Act. It recognizes that a "quid pro quo" of designation in rural areas is the willingness to provide ubiquitous service and assume the obligations that are entailed thereby. The "service area" may be comprised of something other than the company's

²⁸ Notice, ¶ 6.

study area only if the Commission and the States establish a different definition, after taking into account the recommendations of a Federal-State Joint Board.

Previously, when the Joint Board evaluated this issue, it recommended that the Commission retain the current study areas of rural telephone companies as the service areas for such companies, with good reason. The Joint Board stated that Congress presumptively retained study areas as the service area for rural telephone companies in order to minimize “cream skimming” by competitors.²⁹ Providing service throughout a study area is critical in rural areas where sparse densities make area-wide coverage less attractive. Cream skimming makes it possible to defeat Congress’s goal of providing comparable services to all customers residing in rural areas.

Furthermore, disaggregation increases the chances that CETCs will target the incumbent’s support to reflect the incumbent’s cost. The fact is that CETCs serving partial rural study areas can cream skim because they escape the obligations of rural ILECs with carrier of last resort (COLR) obligations to serve. It sets a dangerous precedent to allow a wireless CETC to serve just a portion of a study area. At best, the customers outside of the wireless CETC’s licensed territory may be forced to pay higher rates to make up lost revenue and suffer decreased quality; at worst, it may destroy a rural telephone company.

Lastly, disaggregation does not remove the inherent problems created by basing CETC support on ILEC costs as a result of the identical support rule. Eliminating the identical support rule and basing CETC support on their own costs will make disaggregation moot, eliminate

²⁹ *Federal-State Joint Board on Universal Service, Recommended Decision*, CC Docket No. 96-45, 12 FCC Rcd 87, 179-180 (1996).

cream skimming, control misuse of high-cost USF support dollars, and assist the Commission in managing and sustaining sufficient USF support in the future.

V. ABANDON THE IDENTICAL SUPPORT RULE.

The Joint Board seeks comment on whether it should recommend the abandonment or modification of the identical support rule which provides CETCs with high-cost USF support based on ILEC costs.³⁰ NTCA agrees with FCC Commissioner Jonathan Adelstein, who believes “we have a sufficient record to recommend a policy goal that the amount of universal service support paid to competitive providers should not be based on the incumbent’s costs.”³¹ The Act provides that all Americans should have access to adequate telecommunications services at reasonable and affordable charges.³² It does not provide that every unregulated CETC should receive the identical amount of universal service support that the rural ILEC receives. The Joint Board should not assume or pretend that support to wireless CETCs is not excessive and that they are using the support for the purposes intended. By doing so, the Commission cannot ensure CETC compliance with the Act or the preservation of universal service. The Joint Board should therefore recommend the elimination of the “identical support rule” in its upcoming recommendation to the FCC.³³

³⁰ Public Notice, ¶ 7.

³¹ Commissioner Adelstein recommends that carriers receive support based on their own costs. *See, In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Joint Board Recommended Decision, Separate Statement of Commissioners Adelstein, Rowe, and Thompson (rel. February 27, 2004).

³² 47 U.S.C. § 151.

³³ 7 C.F.R. § 54.307. The identical support rule allows CETCs to receive the same per-line support as rural ILECs based on the ILEC’s costs.

National and regional wireless carriers are not “rural telephone companies” as defined by the Telecommunications Act of 1996.³⁴ Because of the identical support rule, however, these large wireless providers are able to circumvent this fact and receive substantial amounts of high-cost support tied to “rural telephone company” costs that have no relationship to their wireless costs.³⁵ Indeed, CETC support has escalated from \$106 million in 2003 to \$1.03 billion in 2006,³⁶ an 870 percent change over this three year period. During this same time, ILEC high-cost USF support has remained unchanged at \$3.17 billion.³⁷ The identical support rule is clearly the root of the escalating fund problem.

The identical support rule allows CETCs to receive the same per-line support as rural ILECs based on the ILEC’s costs.³⁸ Thus it is entirely possible for a large wireless CETC to receive rural support even if it can be extremely profitable in rural markets without support.

Indeed, the District Court in Nemaha County, Kansas, overturned a decision by the Kansas

³⁴ Based on a Joint Board recommendation, in 1997 the Commission adopted, for universal service purposes, a definition of rural carrier that mirrored the definition of “rural telephone company” found in section 153(37) of the Act. See 47 U.S.C. § 153(37); *Universal Service First Report and Order*, 12 FCC Rcd at 8943-44, ¶ 310. Pursuant to this definition, a rural telephone company is a local exchange carrier operating entity to the extent that the entity:

(A) Provides common carrier service to any local exchange carrier study area that does not include either:

- (i) Any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or
- (ii) Any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) Provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) Provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) Has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

³⁵ National and regional wireless carriers are currently receiving per-line support based on the costs of many small, landline, incumbent rural telephone companies serving less than 50,000 customers including such states as Alabama, Iowa, Michigan, Mississippi, Montana, North Dakota, South Dakota, Texas, Virginia, West Virginia, Washington, and Wisconsin.

³⁶ See, Universal Service Administrative Company (USAC) filings with the FCC: USAC 1Q2003 HC01 and USAC 2Q2006 HC01.

³⁷ *Id.*

³⁸ 47 C.F.R. § 54.307.

Commission that would have made state universal service support received by rural ILECs portable to CETCs on a per-line basis. The court determined that providing support to a CETC based on the costs of an ILEC is not competitively neutral. The Court found that:

The Order of the [Kansas Corporation] Commission violates the [state's] statutory requirement to make distributions in a "competitively neutral manner," because the Commission has failed to evaluate all the necessary cost/expense information from all providers. The LEC's [sic] are different in structure and treatment than the wireless providers. Attempting to establish competitive neutrality without evaluating all providers' costs and expenses, means that the [Kansas Corporation] Commission has compared apples to oranges. In order that its orders are competitively neutral, the [Kansas Corporation] Commission must compare the same units of measure.³⁹

This regulatory disparity has created a dangerous incentive for wireless carriers to seek CETC status in rural high-cost areas where they already provide ancillary wireless service to ILEC customers. Even if the management of a wireless carrier knows that their costs are low enough to compete effectively without the additional support, they are compelled by the identical support rule to seek CETC designation so as to maximize profits and avoid lost opportunities to obtain support. This has led to a dramatic increase in CETC rural high-cost universal service support over the years. When a wireless CETC receives universal service support under these circumstances it is very likely a windfall.⁴⁰

³⁹ *Bluestream Telephone Company, et al vs. Kansas Corporation Commission*, In the District Court of Nemaha County, Kansas, Case Nos. 01-C-39, 01-C-40, 03-C-20, and 2004-CV-19, Memorandum and Decision (rel. April 30, 2004).

⁴⁰ Salomon Smith Barney, Wireless Services, USF Subsidies May Significantly Improve Subscriber Economics for Rural Carriers, Multi-Company Note, p. 1 (January 21, 2003) ("USF is the single-most important opportunity for rural wireless carriers to improve their return on capital.") *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d at 412 (U.S.C.A. 5th Cir. July 30, 1999) ("The term 'sufficient' appears in § 254(e), and the plain language of § 254(e) makes sufficiency of universal service support a direct statutory command rather than a statement of one of the seven principles.").

Indeed, Cingular's Georgia ETC Designation Petition filed with the FCC, like its identical Virginia Petition, is an attempt to exploit this loophole in the rules and set a precedent that will likely lead to the unsustainability of the high-cost universal service mechanisms. Cingular is the nation's largest wireless provider, claims 57.3 million subscribers, and reports total 2006 operating revenues of over \$27 billion as of September 30, 2006.⁴¹ Cingular is now the wholly-owned subsidiary of the merged BellSouth Corporation and AT&T, Inc. BellSouth reports total operating revenue of over \$26 billion as of September 30, 2006,⁴² and AT&T reports total operating revenues of over \$47 billion as of September 30, 2006.⁴³ The sizes and revenue bases of Cingular, BellSouth and AT&T are relevant in assisting the Commission to gauge the impact that a Cingular ETC designation will have on the USF and the Commission's public interest determination. The Commission should send a clear message to Cingular and others that the identical support rule and national wireless carrier petitions for high-cost support is not in the Nation's public interest.

VI. THE JOINT BOARD AND FCC SHOULD OPEN A SEPARATE REDEFINITION PROCEEDING TO DETERMINE WHETHER BROADBAND SHOULD BE INCLUDED IN THE DEFINITION OF UNIVERSAL SERVICE.

The Joint Board seeks comment on whether the FCC and Joint Board should consider adding broadband to the list of supported services.⁴⁴ The Joint Board and FCC should open a separate proceeding to determine whether broadband should be included in the list of supported services in the definition of universal service. NTCA also recommends that the Joint Board and

⁴¹ Cingular Wireless LLC 10Q 2006 Report, filed Nov. 1, 2006.

⁴² BellSouth Website, 10Q 2006 report, filed Nov. 1, 2006, available at http://media.corporate-ir.net/media_files/irol/95/95539/3q06x2.pdf.

⁴³ AT&T Website, 10Q 2006 report, filed Nov. 1, 2006, available at <http://phx.corporate-ir.net/phoenix.zhtml?c=113088&p=irol-sec>.

⁴⁴ Public Notice, ¶ 8.

the FCC work with Congress to establish a national broadband policy for the United States. A national policy that will take into consideration the financial burden placed on American consumers and businesses should take place prior to modifying the definition of universal service. The Joint Board and Commission need to seek ways to help carriers deploy advanced services and make them affordable for American consumers. A separate proceeding focusing exclusively on this issue will enable the Joint Board, the FCC and Congress to understand all potential benefits, difficulties, risks and rewards associated with first defining “broadband” and then considering whether to including that newly defined service into the definition of universal service and its impact on the high-cost USF mechanisms.

VII. NTCA’s PROPOSED ALTERNATIVES WOULD ADDRESS THE ACT’S UNIVERSAL SERVICE GOALS WITH MUCH MORE CERTAINTY AND MUCH LESS RISK TO RURAL CONSUMERS.

The current policies for determining and distributing rural high-cost USF support have enabled the Commission to reach and maintain a 93.4 percent universal service penetration rate in U.S. households.⁴⁵ Adopting a new reverse auction mechanism could jeopardize this achievement by the United States and create significant disincentives for rural carriers to continue to invest and to provide high-quality affordable basic and advance services to their rural communities.⁴⁶ Rather than heading down the very uncertain and risky path of attempting to implement reverse auctions in areas with preexisting infrastructure and ubiquitous service, the Joint Board should consider more certain and less risky alternatives for providing affordable and comparable services, efficiently managing the growth of high-cost USF support, and sustaining

⁴⁵ FCC Report: *Telephone Subscribership in the United States, Data Through November 2006* (rel. May 8, 2007), http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-272906A1.pdf

⁴⁶ 47 U.S.C. 254(b)(5) states that Federal and State mechanisms to preserve and advance universal service should be specific, predictable and sufficient.

universal service in rural, high-cost areas throughout the United States. Consumers in most high-cost service areas are already receiving affordable and comparable voice communications services through either the ILEC and/or wireless CETC. Thus, the Act's goal of providing comparable rates and services has been achieved. The need to add additional CETCs in rural high-cost service areas therefore should be limited on a going forward basis.

The statutory universal service goals contained in Section 254 do not promote USF competition nor direct the Joint Board or the Commission to use universal service support dollars to artificially stimulate competition. The focus of the Joint Board in this proceeding therefore should focus on the goals of Section 254 and consider alternative proposals that will maintain the existing affordability and quality service consumers receive in rural, high-cost areas. As discussed previously, reverse auctions will likely lead to the deterioration of service quality, customer confusion and dissatisfaction, and, at worst, the inability to provide service to consumers living in rural, high-cost areas. NTCA therefore urges the Joint Board to consider and recommend the proposed alternatives described below to accomplish the same goals, with much less risk to those consumers who rely on sufficient, reliable universal service support for the provision of affordable communications services.

A. A Meaningful Public Interest Test Should Be Applied When Considering Future ETC Designations

NTCA agrees with Chairman Martin when he stated that in "my view, the main goals of the universal service program are to ensure that all consumers--including those in high cost areas--have access at affordable rates. I remain hesitant to subsidize multiple competitors to

serve areas in which costs are prohibitively expensive for even one carrier.”⁴⁷ The Act seeks to provide consumers in rural and high cost areas with services and rates comparable to urban areas.⁴⁸ The Act does not guarantee that rural and high cost areas have the same number of supported ETCs as urban areas. Therefore, rather than simply granting additional ETC designations through reverse auctions or otherwise, the states and the Commission must look at whether support will in fact promote comparability between rural and urban areas. As Commission Adelstein stated, “[those performing the public interest analysis] also need to consider whether the new service proposed is an enhancement or an upgrade to already existing or currently available service.”⁴⁹ The Act provides that there be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service.⁵⁰ It is therefore incorrect for regulators to ignore the demand for and ultimate sustainability of the universal service mechanisms as they decide future ETC designations.⁵¹

In the past, the states and the Commission have performed no more than a perfunctory CETC public interest analysis. They have found that CETC designation in rural areas fulfills federal policies favoring competition. The states and the Commission, however, have not sufficiently considered that subsidized competition and competition for competition’s sake are not the universal service goals in the Act and may ultimately harm the consumer. The public interest determination in Section 214(e)(2) and (6), however, is not synonymous with the mere

⁴⁷ *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04J-1, Joint Board Recommended Decision, Separate Statement of FCC Commissioner Kevin Martin (rel. February 27, 2004)

⁴⁸ 47 U.S.C. § 254(b)(3).

⁴⁹ Speech by Commissioner Jonathan Adelstein, “Rural America and the Promise of Tomorrow,” NTCA Annual Meeting & Expo, Phoenix, Arizona (February 3, 2003).

⁵⁰ 47 U.S.C. § 254(b)(5).

⁵¹ *In the Matter of RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, CC Docket No. 96-45, DA 02-3181, Memorandum Opinion and Order (rel. Nov. 27, 2002).

introduction of competition because Congress required more than the mere certification of all applicants seeking ETC designation.

Commissioner Adelstein previously stated the need to balance competition against the public good, stating, “The public interest . . . demands that regulators seriously consider whether a market can support more than one carrier with universal service. If not, then new designations shouldn’t be given as a matter of course just because it appears they meet other qualifications.”⁵² Commissioner Adelstein’s remarks echo earlier statements of Chairman Martin. In a separate statement to the Order adopting the MAG plan, Chairman Martin questioned “the Commission’s policy . . . of using universal service support as a means of creating ‘competition’ in high cost areas.”⁵³ He also recognized that subsidizing multiple competitors in an area that cannot support it “may make it difficult for any one carrier to achieve the economies of scale necessary to serve all of the customers in a rural area, leading to inefficient and/or stranded investment and a ballooning universal service fund.”⁵⁴ This is an issue that should be considered as part of the public interest test when determining whether an additional ETC is in the public interest.

The public interest test should not focus on whether support will enhance competition but whether universal service is being maintained and preserved in accordance with the principles of Section 254. The public interest test should look at whether rural customers are receiving comparable services and rates as a result without designating additional ETCs within a

⁵² Speech by Commissioner Jonathan Adelstein entitled “Rural America and the Promise of Tomorrow,” NTCA Annual Meeting & Expo, Phoenix, Arizona (February 3, 2003).

⁵³ Separate Statement of Commissioner Kevin J. Martin in *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers Federal-State Joint Board on Universal Service Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers*, 16 FCC Rcd 19613 (2001).

⁵⁴ *Id.*

designated area. Will designating additional ETCs result in sustained comparability of rates and services in rural areas or will they lead to a deterioration of services and disparate rates? Will current multiple ETCs promote investment in the facilities needed to afford rural customers access to comparable broadband services at comparable rates? As Dr. Lehman correctly identifies:

Artificially induced competition in rural areas serves to undermine the already weak business case for broadband deployment. It threatens the revenue base for [rural carriers] but does not reduce the investments required to provide service [and continue to meet carrier of last resort obligations]. ... Universal service should not be used to induce competition. Entry will occur where market conditions permit it.⁵⁵

A meaningful public interest test should therefore look beyond the short-term and consider the long-term impact of multiple ETCs within a single designated area on evolving services that are likely to be deployed widely in urban areas, namely broadband services. It cannot be assumed that evolving broadband services will emerge in high-cost rural areas merely as a result of introducing multiple ETCs.

B. Base Wireless CETC Support on Each Wireless CETC's Size and Costs.

To correct the problems associated with the Identical Support Rule the Joint Board must accept the fact that large wireless carriers, such as Cingular, Verizon, and Alltel, and rural wireless carriers with less than 100,000 subscribers within a state do not have the same costs or regulatory obligations as rural ILECs. Wireless carriers also provide neither the same quality of local service nor interstate access services to consumers. Wireless carriers do not have carrier of last resort obligations. They do not use the same type of facilities to provide services. Wireless

⁵⁵ Dale Lehman, *The Cost of Competition*, NTCA 21st Century White Paper Series, Paper 3, p. 3 (December 2000).

CETCs do not have high-cost loops and do not provide ubiquitous local service. They also do not have the interstate access costs relevant to the interstate common line support (ICLS) mechanism because they have no wireline local loops on which the ICLS mechanism is based. And, unlike rural ILECs, wireless CETCs do not offer equal access to all long distance carriers and hence wireless CETC costs for providing access to a single long distance carrier are likely to be very different than the rural ILEC's costs. Thus, "non-rural" and "rural" wireless carriers designated as CETCs in a rural ILEC study area should not receive the identical per-line support as the ILEC, based on the ILEC's costs.

As mention previously in these comments, the sizes and revenue bases of Cingular and other non-rural and rural wireless carriers are relevant in assisting the FCC to gauge the impact that a wireless CETC designation will have on the USF and the Commission's public interest determination. With the elimination of the identical support rule and requiring all wireless CETCs to base their universal service support on their own size and costs, the FCC will be better able to ensure that support to a wireless CETC is not excessive and used for the purposes intended as required by Section 254(e) of the Act.⁵⁶ The Joint Board should send a clear message to the Commission that a wireless carrier's size and costs do matter when it comes to determining whether a wireless CETC's designation is in the Nation's public interest.

C. Expand the Base of USF Contributors to Include All Broadband Service Providers.

NTCA urges the Joint Board to recommend that the existing revenue-based USF contribution mechanism be modified by expanding the pool of USF contributors to include all cable, wireline, wireless, electric, and satellite broadband Internet access providers. Section

⁵⁶ 47 U.S.C. § 254(e).

254(d) specifically provides the Commission with permissive authority to require any provider of interstate “telecommunications” to contribute to universal service. Requiring all broadband Internet access providers to contribute will provide sufficient universal service support and sustain long-term stability to the USF contribution methodology.

In *Brand X*, the Supreme Court stated “the Commission reasonably concluded a consumer cannot purchase Internet service without also purchasing a connection to the Internet and the transmission always occurs in connection with information processing.”⁵⁷ In the *Wireline Broadband Classification Order*, the Commission concluded that wireline broadband Internet access service provided over a provider’s own facilities is an “information service.”⁵⁸ The Commission also determined that “wireline broadband Internet access service, like cable modem service, is a functionally integrated, finished service that inextricably intertwines information-processing capabilities with data transmission such that the consumer always uses them as a unitary service.”⁵⁹ The Commission further held that “consistent with *Brand X*, such a transmission component is mere telecommunications.”⁶⁰

⁵⁷ *NCTA v. Brand X*, slip op. at 20, (June 27, 2005). A copy of the *Brand X* Opinion can be found at <http://www.fcc.gov/ogc/documents/opinions/2005/04-277-062705.pdf>.

⁵⁸ *In the Matter of Appropriate Frameworks for Broadband Access to the Internet over Wireline Facilities*, CC Docket 02-33, *Universal Service Obligations of Broadband Providers*, CC Docket No. 01-337, *Review of regulatory Requirements for Incumbent LEC Broadband Telecommunications Services, Computer III Further Remand Proceeding: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review of Computer III and ONA Safeguards and Requirements*; CC Docket Nos. 95-20, 98-10; *Conditional Petition of the Verizon Telephone Companies for Forbearance Under Section 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises*, WC Docket No. 04-242, *Consumer Protection in the Broadband Era*, WC Docket No. 05-271, FCC 05-150, ¶ 9 (rel. Sept. 23, 2005). (*Wireline Broadband Classification Order*).

⁵⁹ *Id.*, ¶ 12. The Commission limited this order to wireline broadband Internet access service and its underlying broadband transmission component whether the component is provided over copper loops, hybrid copper-fiber loops, fiber to the curb or fiber to the premise (FTTP) network, or any other type of wireline facilities, and whether that component is provided using circuit switched, packet-based, or any other technology. ¶¶ 112-113. After a transition period established by the order, ILECs that choose to offer broadband Internet access on a common carrier

The regulatory classification of cable⁶¹ and wireline broadband Internet access service as an information service does not preclude the Commission requiring all providers of broadband Internet access service to contribute to the USF mechanisms based on the revenues derived from these services. The underlying transmission component of all broadband Internet access services is “telecommunications” as defined by the Act.⁶² Section 254(d) specifically provides the Commission with permissive authority to require any other provider of interstate “telecommunications to contribute to universal service.”

On August 14, 2006, facilities-based wireline broadband Internet access service providers that choose to provide broadband transmission on a non-common carrier basis were no longer required to contribute to the USF based on the revenues derived from that transmission service.⁶³ Apparently, the Commission believes that resulting reductions in USF contributions from these carriers will be offset by increased USF contributions from wireless carriers and interconnected VoIP providers.⁶⁴ The Commission, however, provided no studies or data as part of its Interim USF Contribution Order to support such a result. If the additional contributions from wireless

basis will continue to be liable for USF contributions based on the revenues from those offerings. ILECs that choose to offer broadband Internet access on a private carriage basis after the transition, their revenues from the offering would not be subject to USF contribution assessments. ¶ 9, footnote 15.

⁶⁰ *Id.*, ¶104.

⁶¹ *In the Matter of Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities, Internet Over Cable Declaratory Ruling*, GN Docket No. 00-185; *Appropriate Regulatory Treatment for Broadband Access to the Internet Over Cable Facilities*, CS Docket No. 02-52, FCC 02-77, ¶ 7 (rel. March 5, 2002). (cable-modem high-speed Internet access service, as it is currently offered, is classified as an interstate information service).

⁶² Telecommunications is defined as the transmission, between or among points specified by the user, of information of the user’s choosing, without change in form or content of the information as sent and received. 47 U.S.C. § 153(43). Information service is defined as the offering of a capability for generating acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications. 47 U.S.C. § 153(20).

⁶³ *Wireline Broadband Classification Order*, ¶113. See also, *Universal Service Contribution Methodology Interim Order*, WC Docket No. 06-122, fn. 206 (rel. June 27, 2006).

⁶⁴ *Universal Service Contribution Methodology Interim Order*, WC Docket No. 06-122, (rel. June 27, 2006). Commissioner Copps and Commissioner Adelstein, in their separate statements to the Contribution Order, expressed concern over the lack of certainty as to whether the new contributions from interconnected VoIP providers and wireless carriers will offset the funds lost by wireline broadband’s non-participation.

and VoIP providers do not offset the lost USF contributions from wireline broadband providers, then there will be a universal service support shortfall which will require an increase in the USF contribution factor. Requiring all broadband Internet access providers to contribute will provide long-term stability to the USF contribution methodology.

Moreover, the Missoula Plan for Intercarrier Compensation Reform, which is sponsored by a broad segment of the communications industry, supports expanding the base of universal service fund contributors to include all broadband Internet access providers.⁶⁵ The Missoula Plan states that it will be impossible to sustain a robust USF based on contributions from only a narrow class of carriers and services and that only a broad-based contribution methodology can achieve the Act's requirements that universal service support mechanisms be equitable and nondiscriminatory. The Missoula Plan further recommends that there should be a uniform contribution rule for all providers of facilities-based, broadband information services, regardless of the specific technology they use.

The future public communications network will require universal service funding to provide affordable and comparable voice and broadband services to all Americans, urban and rural, high-cost and low-income. It will also require a USF contribution methodology that is able to evolve with the future public communications network that will rely on IP-based transmission services.⁶⁶ If USF contributions are limited to traditional wireline and wireless voice services only, the inevitable migration away from these services could potentially eliminate all future

⁶⁵ Missoula Plan, CC Docket No. 01-92, Appendix B, pp. 88-89 (filed July 24, 2006).

⁶⁶ The Commission's most recent data on broadband subscribership demonstrates that high-speed connections continue to grow rapidly. During 2005, high-speed Internet access lines grew from 37.9 million to 50.2 million lines, an increase of 33 percent (or 12.3 million lines). *High-Speed Services for Internet Access: Status as of December 31, 2005*, Industry Analysis and Technology Division, Wireline Competition Bureau, p. 1 (July 26, 2006). Requiring this evolving segment of the communications industry to contribute to universal will significantly lower the USF contribution assessment.

universal service funding. NTCA, therefore, urges the Joint Board to keep pace with how competitors use different facilities and technologies as substitutes for traditional circuit switched telecommunications services and wireline broadband Internet access services and recommends that the FCC require all cable, wireline, wireless, electric and satellite broadband Internet access providers to contribute to the federal universal service fund.

VIII. CONCLUSION

The difficulties and dangers inherent in applying reverse auctions in areas with existing communications infrastructure and ubiquitous service are demonstrated in these comments and in Dr. Lehman's paper *The Use of Reverse Auctions for Provision of Universal Service*. Given the Act's goal of preserving and advancing universal service to ultimately provide consumers with affordable access to advanced telecommunications and information services, reverse auctions would be completely at odds with the intent of Sections 254 and 706 in the Act. It is clear that the risks associated with the use of reverse auctions for the determination of universal service provision are too great for reverse auctions to be considered a feasible alternative for determining the future basis of high-cost support to ETCs. NTCA therefore urges the Joint Board to reject the reverse auction concept and to consider and recommend the following alternatives to accomplish the same goals, with much less risk to both those providers who rely on sufficient, reliable universal service support for the provision of affordable communications services and to the consumers who rely on those providers:

1. Dismiss reverse auctions as a means for determining future high-cost universal service support in areas with preexisting communications infrastructure;
2. Reject the use of GIS technology and hypothetical network cost modeling, which do not take into account actual costs, competitive conditions, and variables unique to individual small rural ILECs;

3. Reject mandatory disaggregation;
4. Abandon the identical support rule;
5. Require all CETC USF support to be based on CETC costs;
6. Establish a separate proceeding to determine whether broadband should be included in the definition of universal service;
7. Establish and enforce a meaningful public interest test for CETC applicants; and
8. Expand the base of USF contributors to include all broadband service providers.

Implementing NTCA's proposed changes to the existing universal service rules will enable the Commission to ensure comparable rates and services for rural and urban consumers and rein in the excessive growth of and inefficiency in the high cost universal service fund associated with the identical support rule. These changes will also ensure that multiple CETCs in any given high-cost area in fact are necessary for providing rural consumers with affordable and comparable services. Lastly, expanding the base of contributors to include all broadband service providers will ensure sufficient, predictable and sustainable universal service support that will evolve with the future public communications network that will inevitably rely on IP-based transmission services.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Adrienne Rolls, certify that a copy of the foregoing Initial Comments of the National Telecommunications Cooperative Association in WC Docket No. 05-337, FCC 07J-2, was served on this 31st day of May 2007 by first-class, United States mail, postage prepaid, or via electronic mail to the following persons:

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